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U.S. Federal Power Commission

Rules and regulations concerning the...

Washington

1921

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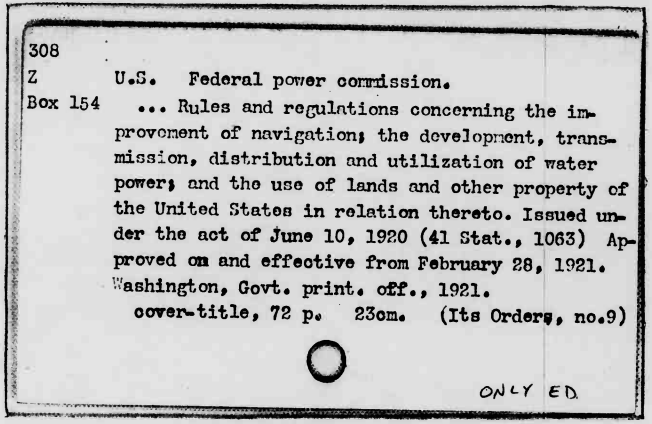

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U.S. Federal power commission.
... Rules and regulations concerning the improvement of navigation; the development, transmission, distribution and utilization of water power; and the use of lands and other property of the United States in relation thereto. Issued under the act of June 10, 1920 (41 Stat., 1063) Approved on and effective from February 28, 1921. Washington, Govt. print. off., 1921.
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FEDERAL POWER COMMISSION

ORDERS, No. 9

RULES AND REGULATIONS

CONCERNING THE IMPROVEMENT OF NAVIGATION; THE DEVELOPMENT, TRANSMISSION, DISTRIBUTION AND UTILIZATION OF WATER POWER; AND THE USE OF LANDS AND OTHER PROPERTY OF THE UNITED STATES IN RELATION THERETO. ISSUED UNDER THE ACT OF JUNE 10, 1920 (41 STAT., 1063)

APPROVED ON AND EFFECTIVE FROM FEBRUARY 28, 1921

WASHINGTON
GOVERNMENT PRINTING OFFICE
1921

KF 97 Wa. 1924

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FEDERAL POWER COMMISSION.

ORDERS No. 9.

By authority of paragraph (h) of section 4 of the Federal Water Power Act, approved June 10, 1920 (41 Stat., 1063), and in pursuance of the action of the Federal Power Commission at its meeting of February 28, 1921, it is hereby ordered that the following rules and regulations, effective on and after the date of execution hereof, being Regulations 1 to 20, inclusive, shall govern in the matters covered thereby, in the administration of said act; and that this order shall supersede Orders No. 6, of September 3, 1920:

Done at the city of Washington, District of Columbia, this 28th day of February, 1921.

NEWTON D. BAKER,
Chairman.

Attest:
O. C. MERRILL,
Executive Secretary.

JURISDICTION OF THE FEDERAL POWER COMMISSION.

A. The commission has jurisdiction over all projects involving the construction, operation, and maintenance of dams, water conduits, reservoirs, power houses, transmission lines, or other project works for the development, transmission, and utilization of power (except as noted in paragraph B below) which affect—

(*a*) Navigable waters of the United States, as defined in the Federal Water Power Act and in these regulations.

(*b*) Other waters of the United States over which Congress has jurisdiction under its authority to regulate commerce with foreign nations or among the several States, when the commission finds that the interests of interstate or foreign commerce will be affected. Anyone proposing to build a project on waters over which he considers the jurisdiction of the commission doubtful should file a Declaration of Intention under Regulation 7. The commission will thereupon make an investigation and determine whether the proposed project will affect the interests of interstate or foreign commerce. If the commission finds that such interests will be affected, the project comes under its jurisdiction and can not lawfully proceed except under permit or license issued by the commission. If the commission does not so find, the act authorizes the project to proceed upon compliance with State laws.

(*c*) Public lands or reservations, including lands for which patent has been issued with an express reservation therein under section 24 of the act, or for which locations, entries, selections, or filings have proceeded to approval or patent under and subject to the limitations and conditions contained in section 24 of the act.

B. Permits or valid rights of way granted prior to and existing on June 10, 1920, remain in force unaffected by the provisions of the Federal Water Power Act, but any person, association, corporation, State, or municipality holding or possessing any such permit, right of way, or authority may apply for a license under said act, and thereupon the provisions of the act will apply to the applicant as a licensee thereunder.

RULES AND REGULATIONS.

REGULATION 1.—GENERAL DEFINITIONS.

The words defined in this regulation shall have the following meaning for the purposes of these rules and regulations:

SECTION 1. "The Federal Water Power Act" and "act" mean the act of Congress, entitled "An act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes," approved June 10, 1920 (41 Stat., 1063).

SEC. 2. "Commission" means the Federal Power Commission created by the Federal Water Power Act, or its successor, or, with respect to any authority or duty prescribed by the act, such officer or agent as it may lawfully designate to assume or perform such authority or duty.

SEC. 3. "Public lands" means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public-land laws. It shall not include "reservations," as hereinafter defined.

SEC. 4. "Reservation" means national monuments, national parks, national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States and withdrawn, reserved, or withheld from private appropriation and disposal under the public-land laws; also lands and interests in lands acquired and held for any public purpose.

SEC. 5. "Corporation" means a corporation organized under the laws of any State or of the United States empowered to develop, transmit, distribute, sell, lease, or utilize power in addition to such other powers as it may possess, and authorized to transact in the State or States in which its project is located all business necessary to effect the purposes of a license under the act. It shall not include "municipalities" as hereinafter defined.

SEC. 6. "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

SEC. 7. "Municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

SEC. 8. "Municipal purposes" means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality.

SEC. 9. "Navigable waters" mean those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition, notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids; together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority.

SEC. 10. "Government dam" means a dam or other work, constructed or owned by the United States for governmental purposes, with or without contribution from others.

SEC. 11. "Project" means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, rights of way, ditches, dams, reservoirs, lands, or interest in lands, the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

SEC. 12. "Project area" means all lands, without respect to ownership, the use and occupancy of which are or will be valuable and serviceable in the maintenance and operation of a project.

SEC. 13. "Project boundary" means the line or lines inclosing the project area.

SEC. 14. "Project works" means the physical structures of a project.

SEC. 15. The "power capacity" of a project means the continued product of—

A. The factor 0.08;[1]

B. The average static head in feet; and

C. The water supply, in cubic feet per second and not in excess of the hydraulic capacity of the approved project works, estimated to be available from natural flow or from storage, or from both, for 90 per cent of the time.

[1] The factor 0.08 rereserents the horsepower at 70 per cent efficiency of one cubic foot of water per second falling through a head of 1 foot.

SEC. 16. "Net investment" in a project means the actual legitimate original cost thereof as defined and interpreted in the "Classification of Investment in Road and equipment of Steam Roads, issue of 1914, Interstate Commerce Commission," plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (*a*) Unappropriated surplus, (*b*) aggregate credit balances of current depreciation accounts, and (*c*) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term "cost" shall include, in so far as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by States, municipalities, individuals, or others.

REGULATION 2.—APPLICATIONS—GENERAL REQUIREMENTS.

SECTION 1. Applications for preliminary permits or licenses may be filed either with the commission at Washington, D. C., or with such office, agent, or agency of the commission as may from time to time be established or authorized to receive applications on behalf of the commission.

SEC. 2. Applications filed with the Departments of War, Interior, or Agriculture, prior to approval of the act, under the provisions of then existing law and accepted as complete by the department with which filed will upon written request of the applicant be received by the commission as an application under the act.

SEC. 3. The date of filing of applications shall be the date of receipt of the latest communication containing information essential for action by the commission on the application.

SEC. 4. All applications for preliminary permits or for licenses shall include:[2]

A. Information relative to the applicant's qualifications to make application as follows:

(1) If the applicant is a corporation:

(*a*) A copy of its charter or articles of incorporation duly certified by the secretary of state of the State where organized, or other officer having legal custody of a record of incorporations (one copy only, marked "Exhibit A").

(*b*) Execute Form 1 in triplicate and mark it "Exhibit B."

(2) If the applicant is a State:

[2] If any applicant shall have filed with the commission any of the papers required by this regulation, a specific reference to such filing, accompanied by duly certified statements of changes thereafter made, thereby bringing up to date the information of the previous filing, will be accepted as fulfilling the requirements with respect to such papers.

A copy of the law or laws, or reference thereto, under authority of which the application is made, duly certified by the governor or secretary of state of the State, under seal, and two uncertified copies marked "Exhibit B."

(3) If the applicant is a municipality:

(*a*) A copy of its charter or other organization papers duly certified by the secretary of state of the State in which it is located or other officer having legal custody of the record of municipal incorporations (one copy only, marked "Exhibit A").

(*b*) A certified copy, or reference thereto, of the State law or laws authorizing the operations contemplated by the application and two uncertified copies marked "Exhibit B."

(4) If the applicant is an association of citizens:

(*a*) Each member shall make affidavit of citizenship. (See application Forms 3 and 4.) Associations shall submit their articles of association. If there be none, the fact shall be stated over the signature of each member of the association (one copy only, marked "Exhibit A").

(*b*) A complete list of members must be given in an affidavit by one of them (in triplicate, marked "Exhibit B").

(5) If the applicant is an individual:

An affidavit by the applicant that he is a citizen of the United States. (See application Forms 3 and 4.)

B. General data with respect to the project or projects applied for, to be shown on the prescribed application Form 3 or 4, paragraphs 2 to 6, inclusive.

C. Maps and drawings as required by Regulation 3, 4, or 5, as the case may be. All maps and drawings:

(1) Shall be on tracing linen cut to uniform size, not smaller than 24 inches by 36 inches and not larger than 28 inches by 40 inches, the latter size being preferred, except that lithographed official maps issued by Federal or State agencies may be used for general maps of the project and, when so used, one copy for permanent record shall be mounted on linen.

(2) Shall have a clear border of one-half inch on three sides, and of 2½ inches on one of the shorter sides, which shall be the left-hand border of the map.

(3) Shall have a numerical scale and a graphical scale, the latter not less than 6 inches in length.

(4) Shall, if a map, have true and magnetic meridians indicated thereon.

(5) Shall have a space 4 inches by 7 inches in the lower right corner, the upper half of which shall bear the title, scale, etc., and the lower half of which shall be left clear.

(6) Shall, if a map including public lands, show location of all official public-land survey lines crossing the project area. If on unsurveyed public lands or reservations, the protractions of township and section lines shall be shown, such protractions whenever available to be those recognized by the agency of the United States having jurisdiction over the lands.

(7) Shall be rolled, not folded, for mailing, etc.

SEC. 5. Applicants may be required upon request of the commission to furnish maps, plans, or other data in addition to the requirements specifically set forth in the regulations, if in the judgment of the commission such additional data are desirable for a full understanding of the project or projects or for the purpose of enabling the commission to review the design thereof, either in whole or in part.

SEC. 6. The names of applicants, the information contained in the application forms (Forms 3 and 4), and general project maps will be available for general public information. Other information concerning applications will not be made public except upon a showing satisfactory to the commission of the public necessity or desirability therefor, or with the consent of the applicant. At public hearings upon any application the commission may require the presentation of such information respecting the application as in its judgment the proper conduct of the hearing or the public interests requires.

REGULATION 3.—APPLICATIONS FOR PRELIMINARY PERMITS

All applications for preliminary permits shall be submitted in triplicate on Form 3, and shall be accompanied by the items specified below, each of which shall be dated and signed by the applicant in the form prescribed in Form 2 and designated "Exhibit A," "Exhibit B," etc., as indicated.

SECTION 1. *Exhibit A.*—Certified copy of charter, articles of incorporation or other organization papers (one copy only). (See Regulation 2, sec. 4.)

SEC. 2. *Exhibit B.*—Other evidence that applicant is qualified to apply for and receive a permit (in triplicate). (See Regulation 2, sec. 4.)

SEC. 3. *Exhibit C.*—Statement of nature and amount of data available, such as surveys, maps, plans, stream measurements, foundation explorations, etc., and of work already performed, including preliminary construction, such as clearing, road building, etc. (in triplicate).

SEC. 4. *Exhibit D.*—Nature and amount of work proposed to be performed under preliminary permit, such as surveying, preparation

of maps and plans, measurement of streams, explorations of foundations, or preliminary construction, and estimate of cost thereof (in triplicate).

SEC. 5. *Exhibit E.*—Statement of nature, extent, and ownership of water rights and of ownership of lands which applicant contemplates using in the development of each project. Also statements of applicant's plans with reference to perfecting water rights and to acquiring lands (in triplicate).

SEC. 6. *Exhibit F.*—Statement whether project involves the use of a Government dam or other Government structure; and if so, to what extent (in triplicate).

SEC. 7. *Exhibit G.*—Such data as the applicant desires to supply as to his ability to finance the preliminary work as well as the project or projects applied for (in triplicate). The commission may decline to approve the application unless satisfied that the applicant will be able to finance the preliminary work and the project.

SEC. 8. *Exhibit H.*—A general map showing the nature, principal features, and location of the project with reference to some well-known town or stream. On this map shall be placed a line indicating the approximate project boundary (exclusive of transmission lines) and the approximate distance and bearing of the upper and lower limits thereof from some natural object or permanent monument that can be readily found and recognized from a description thereof noted on the map. If on land covered by official public-land survey, the distances and bearings shall be from the nearest existing corner of the public survey. (One tracing and two blue prints, or lithographed official map with project shown thereon, one copy mounted on linen and four copies not so mounted.) (For size, etc., of map, see Regulation 2, sec. 4, par. C.)

SEC. 9. *Exhibit I* (to be submitted only if public lands or reservations are affected).—A map showing the project area and the location of the principal features of the project. The map shall show as the project boundary the subdivision line of the public-land survey lying next outside the project area, unless the applicant can define it more closely, in which case the boundary shall be so defined.

On the map shall be indicated separately lands patented, lands entered or otherwise embraced in any unperfected claim under the public-land laws, unreserved public lands, and lands of each and every reservation affected. The map shall be on a scale to present this information effectively.

If so desired, a single map may be submitted for Exhibits H and I, provided it shows all the information required for both, and, in that case, one tracing and five blue prints shall be furnished. If

separate maps are used, one tracing and three blue prints shall be furnished. (For size, etc., of map, see Regulation 2, sec. 4, par. C.)

SEC. 10. *Exhibit J.*—Such additional exhibits as applicant may consider pertinent to submit.

REGULATION 4.—APPLICATIONS FOR LICENSES—MAJOR PROJECTS.

All applications for licenses, and for additions or betterments to projects already under license (except for projects of not more than 100-horsepower capacity), shall be submitted in triplicate on Form 4, and shall be accompanied by the items specified below, each of which shall be dated and signed by the applicant in the form prescribed in Form 2 and designated "Exhibit A," "Exhibit B," etc., respectively, as indicated.

SECTION 1. *Exhibit A.*—Certified copy of charter, articles of incorporation, or other organization papers (one copy only). (See Regulation 2, sec. 4.) If already furnished for preliminary permit, reference thereto will suffice.

SEC. 2. *Exhibit B.*—Other evidence that applicant is qualified to proceed with the project applied for (in triplicate). (See Regulation 2, sec. 4.) If already furnished for preliminary permit, reference thereto will suffice.

SEC. 3. *Exhibit C.*—Field notes, or a description by metes and bounds, of the entire final location survey of the project boundaries and of transmission lines. Field notes need not be submitted as a separate exhibit when they are noted on tracings filed with application (in triplicate).

SEC. 4. *Exhibit D.*—Evidence that the applicant has complied with the requirements of the laws of the State or States within which the project or projects will be located with respect to bed and banks and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of the license applied for. This evidence shall be accompanied by a statement of the steps that have been taken and the steps that remain to be taken to acquire franchise of other rights from counties and municipalities before the project or projects can be completed and put into operation (in triplicate).

SEC. 5. *Exhibit E.*—Statement of the nature, extent, and ownership of the water rights and of ownership of lands which the applicant proposes to use in the development of the project or projects applied for, together with satisfactory evidence that the applicant has proceeded as far as practicable in perfecting its rights to use sufficient water for proper operation of the project works. A certified statement from the proper State agency setting forth the extent

and validity of the applicant's water rights shall be filed if practicable. Whenever the approval or permission of one or more State agencies is required by State law as a condition precedent to the applicant's right to take or use water for the operation of the project works, duly certified, evidence of such approval or permission or a showing of cause why such evidence can not be reasonably submitted shall be filed. Statement of applicant's plans for acquiring lands owned by other parties and which are essential for carrying out the project. If statement submitted with application for preliminary permit gives above information, a reference thereto will suffice (in triplicate). When State certificate is involved, one certified copy and two uncertified copies will suffice.

SEC. 6. *Exhibit F.*—Statement whether project involves the use of a Government dam or other Government structure; and if so, a detailed description of the proposed use. Information relative to such structure which may be of record in any branch of the United States Government at Washington need not be furnished if appropriate reference thereto is given (in triplicate).

SEC. 7. *Exhibit G.*—Statement showing the financial ability of the applicant to carry out the project or projects applied for (in triplicate). If adequate statement has been furnished with application for preliminary permit, reference thereto will suffice.

SEC. 8. *Exhibit H.*—Statement of the effect of the proposed operation of the project works on the normal flow of the stream, including a statement of the minimum flow proposed to be released during periods of low water and full exposition of the relation of any proposed ponding of the flow to the conservation and utilization in the public interest of the available water resources for the purposes of power, navigation, irrigation, reclamation, flood control, and municipal water supply (in triplicate).

SEC. 9. *Exhibit I.*—Estimate of the power capacity of each project, accompanied by the complete data upon which such estimate is based, including stream flow, evaporation records, static heads, etc. A list of all present and proposed sources of power for the system of which the project or projects will be a part, including the approximate location, water power or steam power, source of water, ultimate capacity of all power plants in use or proposed to be used, and the present installed capacity of constructed plants; also connections, if any, with other power systems (in triplicate). If any of these data are of record in any branch of the United States Government at Washington, appropriate reference thereto will suffice.

SEC. 10. *Exhibit J.*—General map covering the entire project area or areas, showing on a single sheet and to an appropriate scale:

A. Principal structures and other important features.

B. The entire transmission system with which the project or projects may be connected, indicating prominently by appropriate symbol the portions for which application is made.

C. State and county lines, towns, streams, and other features that will aid in arriving at a general comprehension of the project.

D. References to the detail map, indicating by outline the portion shown on each sheet.

E. If all features can not be shown with sufficient distinctness on one sheet, two general maps may be furnished, one for structures and one for the transmission system. (Furnish one tracing and two blue prints, or one lithographed map mounted on linen and four unmounted with project works appropriately marked thereon. For size, etc., of map, see Regulation 2, sec. 4, par. C.)

SEC. 11. *Exhibit K.*—Detailed map covering entire project area or areas. Scale in general not more than 400 feet to the inch, except for such portion as will be used only for transmission or telephone lines, where scale of not more than 1 mile to the inch may be used, provided it is accompanied by field notes giving a description of the right of way for the line. Elevations shall be tied to Government bench marks whenever available and shall be referred to mean sea level, except that, in the case of projects on navigable waters having a datum accepted for local use by the United States Engineer Department, War Department, such local datum shall be used. If more than one sheet is used, the sheets shall be numbered consecutively, and each shall bear a small diagram showing the entire map and indicating the portions shown on each sheet. The map shall show with respect to each project applied for:

A. The project boundary, which shall be a line to include the area within which it is necessary to acquire land or rights of way for the project. It shall include only such lands as are or will be valuable and serviceable in the development, transmission, or distribution of power in connection with the project. The location of the project boundary may or may not follow established land lines. It shall be subject to approval of the commission, and unless satisfactory reasons are given therefor it shall not be more than 200 feet distant from exterior margins of reservoirs, water conduits, transmission lines, and appurtenances, or other project works. The project boundary shall be described in such a way that it can be legally identified, and shall be marked on the ground by existing land lines supplemented by such additional monuments as may be necessary. Such portion of the project area as will be used only for transmission lines, telephone lines, pipe lines, conduits, or canals may be described by lines of survey specifying the distances of the project boundary therefrom.

B. All project works accurately located, such as:

(1) Dams.

(2) *Reservoirs.*—Indicate the flow lines by maximum and minimum water levels and by elevation of spill way crest, and give tables or diagrams of areas and capacities for maximum and minimum water levels and for each contour line.

(3) *Water conduits.*—Indicate center line; type, i. e., flume, ditch, tunnel, pipe, etc.; and grade and elevation of bottom at each change of grade.

(4) Power houses and substations.

(5) Transmission lines and appurtenances and telephone lines.

(6) Navigation structures.

(7) Channel approaches to navigation structures indicating elevations of bottom for distances of not less than 1,000 feet above and below the structures.

C. Contour lines with contour interval of not more than 10 feet for the entire project area, except such portions as will be used only for transmission lines or telephone lines or will be included in reservoirs below the minimum elevation to which the water may be drawn down: *Provided*, That a profile of tunnel lines may be substituted for contours along such lines.

D. If on lands covered by official public-land survey (see Regulation 2, sec. 4, par. C (6)), show distances along land-survey lines from the nearest established corner to all intersections with the project boundary where such distances do not exceed 1 mile.

E. Reference lines to the initial points of project boundaries and of the survey (center lines) of transmission or telephone lines and to their intersections with boundaries of reservations. Such reference lines shall show distances and bearings by a line or lines that can at all times be readily retraced from an established corner of the public survey, if not more than 2 miles distant, or, if such established corner is not available, a permanent mark on a natural object or a permanent monument which can be readily found and recognized from a description thereof noted on a map or in the field notes.

F. The status as to ownership, and the land lines and area of each parcel of land within the project boundaries, designating separately lands owned by the applicant, lands for which the applicant holds rights of use and occupancy for purposes of the project, reservations (indicating separately each reservation), and public lands (indicating separately lands, full title to which remains in the United States, and lands in which the United States retains only an interest). (One tracing and two blue prints.)

SEC. 12.—*Exhibit L.*—General design drawings showing plans, elevations, and sections of all principal structures and appurtenant

works or other features of each project applied for. These drawings shall be in sufficient detail and shall be accompanied by sufficient information relating to controlling factors (such as character of foundations and explorations thereof, materials, types of construction, important elevations, and water levels, etc.) to enable the commission to have a full understanding of the project and to check safety, adequacy, and desirability in the development of the resources involved. (One tracing and two blue prints.) This section applies to:

(*a*) Dams and appurtenances, such as spill ways, fishways, outlet works, etc.

(*b*) Navigation structures and approaches thereto, including locks, lock gates, and operating machinery thereof, etc.

(*c*) Conduits, including forebays, intake works, surge tanks, and other pressure relief devices, etc.

(*d*) Power houses and substations.

SEC. 13. *Exhibit M.*—General descriptions and general specifications of mechanical, electrical, and transmission equipment and their appurtenances in sufficient detail to enable the commission to have a full understanding of the project or projects and to determine safety and adequacy and suitability for the development and utilization of the resources involved (in triplicate).

SEC. 14. *Exhibit N.*—Estimate of the cost of developing each project, segregated by principal features, showing quantities, unit costs, etc., in sufficient detail for a full understanding of the elements of cost of the project (in triplicate).

SEC. 15. *Exhibit O.*—Detailed statement of the time desired for completing preliminary construction and for beginning and completing construction of the project works. If the ultimate development is to be completed and put into operation in two or more parts, the time desired for beginning and completing the construction of each part shall be given (in triplicate).

SEC. 16. Such additional exhibits as applicant may consider pertinent to submit.

REGULATION 5.—APPLICATIONS FOR LICENSES—MINOR PROJECTS.

All applications for licenses for power projects of not more than 100-horsepower capacity shall be submitted in triplicate on Form 4 and shall be accompanied by the items specified below, each of which shall be dated and signed by the applicant in the form prescribed in Form 2 and designated "Exhibit A," "Exhibit B," etc., respectively, as indicated:

SECTION 1. *Exhibit A.*—Copy of charter, articles of incorporation, or other organization papers (one copy only). (See Regulation 2, sec. 4.)

SEC. 2. *Exhibit B.*—Other evidence that applicant is qualified to proceed with the project applied for. Certified copy of list of associates, if an association (in triplicate). (See Regulation 2, sec. 4.)

SEC. 3. *Exhibit C.*—Field notes, or a description by metes and bounds of the entire final location survey of the project boundaries and of transmission lines (in triplicate). Field notes need not be submitted as a separate exhibit when they are noted on tracings filed with application.

SEC. 4. *Exhibit D.*—Statement of the applicant's water rights accompanied by evidence that the State water laws have been complied with to the extent necessary to permit the applicant to proceed with all operations contemplated in the application (in triplicate).

SEC. 5. *Exhibit E.*—Statement of the time desired for beginning and completing the construction of the project (in triplicate).

SEC. 6. *Exhibit F.*—Map of the project area drawn to any convenient scale and showing: (See Regulation 2, sec. 4, par. C, for size of sheets, etc.)

A. The project boundary, which shall be a line to include the area within which it is necessary to acquire land or rights of way for the project. The location of the project boundary may or may not follow established land lines, should not be more than 200 feet distant from exterior margins of reservoirs, water conduits, transmission lines, and appurtenances, or other project works, and should be described in such a way that it can be legally identified. Such portion of the project area as will be used only for transmission lines, telephone lines, pipe lines, conduits, or canals may be described by lines of survey (center lines), specifying the distances of the project boundary therefrom.

B. All project works, such as dams, reservoirs, conduits, power houses, transmission lines, etc.

C. If on lands covered by official public-land survey (see Regulation 2, sec. 4, par. C (6)), show distances along land-survey lines from the nearest established corner to all intersections with the project boundary, where such distances do not exceed 1 mile.

D. Reference lines to the initial points of the survey of dams and of the survey (center line) of transmission or telephone lines and to intersections of all such surveys with boundaries of reservations. Such reference lines shall show distances and bearings from an established corner of the public-land survey, if not more than 1 mile distant, or a permanent mark on a natural object or a permanent monument which can be readily found and recognized from a description thereof noted on the map or in the field notes.

E. Location on the flow line fixed by maximum water level and the area and storage capacity of each reservoir.

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F. The status as to ownership and the land lines and area of each parcel of lands within the project boundaries, designating separately lands owned by the applicant, lands for which the applicant holds rights of use and occupancy for purposes of the project, reservations (indicating separately each reservation), and public lands (indicating separately lands, full title to which remains in the United States, and lands in which the United States retains only an interest). (Furnish one tracing and two blue prints. If lands of the United States are involved, furnish two additional blue prints.)

REGULATION 6.—APPLICATIONS FOR LICENSES—MAJOR PROJECTS ALREADY CONSTRUCTED.

All applications for licenses under section 23 of the act (except for projects of not more than 100-horsepower capacity), which include project works already constructed, shall be submitted in triplicate on Form 4, and shall be accompanied by the items specified below, each of which shall be dated and signed by the applicant in the form prescribed in Form 2:

SECTION 1. All exhibits prescribed in Regulation 4, from A to M, inclusive, showing on the maps and plans in some appropriate manner what project works or parts thereof have already been constructed.

SEC. 2. If the application covers project works in addition to those already constructed, submit also an estimate of the cost of construction of such additional works, per Regulation 4, section 14, and a detailed statement of the time necessary for beginning and completing such additional works, per Regulation 4, section 15.

SEC. 3. *Exhibit P.*—A statement of the nature and character of the permit, right of way, or other authority claimed to be held by the applicant. This statement shall be accompanied by copies of or appropriate references to the legislative authority, if any, by or under which such permit, right of way, or authority was acquired, and if granted by an instrument in writing, certified copy of such instrument, or, in lieu thereof, if such a copy is of record in any department of the United States Government at Washington, a statement to that effect and reference thereto (in triplicate).

SEC. 4. *Exhibit Q.*—A statement setting forth a brief history of the project works already constructed, giving time of commencement and of completion of construction of the several parts thereof, date of commencement of operation, and method of financing (in triplicate).

SEC. 5. *Exhibit R.*—A statement of the amount claimed by applicant as the fair value of the project or projects already constructed,

accompanied by such supporting data as the applicant may desire to submit (in triplicate).

SEC. 6. Such additional exhibits as applicant may consider pertinent to submit.

REGULATION 7.—DECLARATIONS OF INTENTION.

SECTION 1. Declarations of intention to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined in the act and in these regulations as navigable waters and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States, filed under the provisions of the second paragraph of section 23 of the act, shall be accompanied by:

A. A sketch map of any convenient size and scale showing the stream or streams to be utilized and the approximate location of the project.

B. A brief description of the project and its purpose, including such data as proposed height of dams, storage capacity of reservoirs, power capacity of the project, and probable effect on present or prospective navigation.

C. A statement as to whether, if the commission finds that the project will affect the interests of interstate or foreign commerce, the applicant proposes to apply for a permit or for a license.

SEC. 2. On receipt of such declaration, the commission will cause immediate investigation of the project to be made, and if it shall find that the interests of interstate or foreign commerce would be affected by the proposed construction, it will so notify the declarant and will inform him of the time within which application for preliminary permit or license should be made. After such finding by the commission it will be unlawful for the declarant to proceed with construction until he shall have applied for and shall have received a license under the provisions of the act. If the commission shall not so find, and if no public lands or reservations are affected, permission is granted by the act to construct such dam or other project works in such stream upon compliance with State laws.

REGULATION 8.—PRIORITIES AND REFERENCES.

SECTION 1. Priority of application for a license may be initiated either by the filing of such application under the provisions of Regulations 2 and 4 or 2 and 5, or by the filing of an application for preliminary permit under the provisions of Regulations 2 and 3, and will be established either by the issuance of a preliminary permit, or, if no preliminary permit has been issued or applied for, by the approval

F. The status as to ownership and the land lines and area of each parcel of lands within the project boundaries, designating separately lands owned by the applicant, lands for which the applicant holds rights of use and occupancy for purposes of the project, reservations (indicating separately each reservation), and public lands (indicating separately lands, full title to which remains in the United States, and lands in which the United States retains only an interest). (Furnish one tracing and two blue prints. If lands of the United States are involved, furnish two additional blue prints.)

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SECTION 1. All exhibits prescribed in Regulation 4, from A to M, inclusive, showing on the maps and plans in some appropriate manner what project works or parts thereof have already been constructed.

SEC. 2. If the application covers project works in addition to those already constructed, submit also an estimate of the cost of construction of such additional works, per Regulation 4, section 14, and a detailed statement of the time necessary for beginning and completing such additional works, per Regulation 4, section 15.

SEC. 3. *Exhibit P.*—A statement of the nature and character of the permit, right of way, or other authority claimed to be held by the applicant. This statement shall be accompanied by copies of or appropriate references to the legislative authority, if any, by or under which such permit, right of way, or authority was acquired, and if granted by an instrument in writing, certified copy of such instrument, or, in lieu thereof, if such a copy is of record in any department of the United States Government at Washington, a statement to that effect and reference thereto (in triplicate).

SEC. 4. *Exhibit Q.*—A statement setting forth a brief history of the project works already constructed, giving time of commencement and of completion of construction of the several parts thereof, date of commencement of operation, and method of financing (in triplicate).

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A. A sketch map of any convenient size and scale showing the stream or streams to be utilized and the approximate location of the project.

B. A brief description of the project and its purpose, including such data as proposed height of dams, storage capacity of reservoirs, power capacity of the project, and probable effect on present or prospective navigation.

C. A statement as to whether, if the commission finds that the project will affect the interests of interstate or foreign commerce, the applicant proposes to apply for a permit or for a license.

SEC. 2. On receipt of such declaration, the commission will cause immediate investigation of the project to be made, and if it shall find that the interests of interstate or foreign commerce would be affected by the proposed construction, it will so notify the declarant and will inform him of the time within which application for preliminary permit or license should be made. After such finding by the commission it will be unlawful for the declarant to proceed with construction until he shall have applied for and shall have received a license under the provisions of the act. If the commission shall not so find, and if no public lands or reservations are affected, permission is granted by the act to construct such dam or other project works in such stream upon compliance with State laws.

REGULATION 8.—PRIORITIES AND REFERENCES.

SECTION 1. Priority of application for a license may be initiated either by the filing of such application under the provisions of Regulations 2 and 4 or 2 and 5, or by the filing of an application for preliminary permit under the provisions of Regulations 2 and 3, and will be established either by the issuance of a preliminary permit, or, if no preliminary permit has been issued or applied for, by the approval

of the application for license. When two or more applications are filed for the same site, the commission will give full consideration to all pertinent matters, including the relative dates of filing of application, before taking final action upon such applications.

SEC. 2. Priority established by preliminary permit may be lost if there is failure to fulfill the requirements of the permit; if the permit is canceled by order of the commission upon failure of the permittee to comply with the conditions thereof; or if, in the course of consideration by the commission of an application by the permittee for license, such permittee shall not before the expiration of the term of the preliminary permit or such later date as may be fixed by the commission:

A. File data required by the commission in addition to that contained in or furnished with the application; or

B. Present satisfactory evidence of ability to carry out the plan set forth in the application; or

C. Accept the conditions of a proposed license; or

D. Modify its plans as required by the commission if the project adopted by the applicant as disclosed in the plan set forth in the application is not such as in the judgment of the commission will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses.

SEC. 3. Priority established by approval of application for license may be lost if the conditions of the proposed license are not accepted within a time fixed by the commission.

SEC. 4. In issuing preliminary permits, or licenses where no preliminary permits have been issued, and in issuing license to new licensees under section 15 of the act, the commission will give preference to applications therefor by States and municipalities, provided the plans of the same are deemed by the commission equally well adapted, or shall within a reasonable time to be fixed by the commission be made equally well adapted, to conserve and utilize in the public interest the navigation and water resources of the region; and, as between other applicants, the commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the navigation and water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans; but such preferences will not be deemed to apply to the issuance of license under the provisions of the first paragraph of section 23 of the act.

REGULATION 9.—PERMITS.

SECTION 1. Except as hereinafter provided, preliminary permits may be issued on the application of citizens, associations, corporations, States, or municipalities desirous of obtaining licenses for the construction, maintenance, or operation of dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, and for the development, transmission, and utilization of power across, along, from, or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam.

SEC. 2. Permits will be issued only for the purpose of enabling applicants to maintain their priorities while securing the data required for an application for license and will be for such periods, not exceeding a total of three years, as in the judgment of the commission will be necessary for studying the proper location and design of the project; for making examinations, surveys, maps, plans, specifications, and estimates; for conducting stream measurements; for sinking test pits or making borings to determine foundations for dams or other structures; for securing a market for the power to be developed; for making financial arrangements; or for any other purpose necessary or desirable in the preparation of application for license.

SEC. 3. Permits will not be issued for projects already constructed; for transmission lines alone; for projects of a power capacity of less than 100 horsepower; for projects which, in the judgment of the commission, do not come within the scope of its authority under the act, or should be undertaken by the United States itself, or do not propose adequate schemes of development, or would unreasonably interfere with projects under permit, license, or other authority theretofore granted; or for projects for which data sufficient for filing application for license are already available. Permits affecting any reservation will be issued only after a finding by the commission that the proposed use will not interfere or be inconsistent with the purpose for which such reservation was created or acquired. Permits will not be issued until after the expiration of the publication period prescribed by the act.

SEC. 4. In acting upon applications for preliminary permits, and in determining preferences therefor, the commission may, in its discretion, upon the request of any applicant or upon its own motion, hold hearings, order testimony to be taken by deposition, summon witnesses, or require the production of documentary evidence.

SEC. 5.—No charges will be made for permits, but permittees will be required, as a condition of maintenance of priority, to perform such work and to make such studies and investigations, and such reports thereon, as in the judgment of the commission may be necessary or desirable to enable both the applicant and the commission to determine the feasibility, and the character and extent of development which is proposed or which should be undertaken, which requirements will be expressed in the permit.

SEC. 6. Upon a satisfactory showing of reasons therefor the commission may authorize permittees to perform such construction work as may be necessary to maintain water rights under State law, or as may be desirable in preparation for the construction of project works; but the granting of such authority shall not be deemed to have created any equities or to have established any rights beyond what would have been created or established had such authority not been given.

SEC. 7. Permits will not be transferable and may be canceled by order of the commission for failure to comply with the conditions thereof.

SEC. 8. Each preliminary permit shall set forth the conditions under which priority shall be maintained and a license issued, and shall also set forth the essential terms and conditions of such license.

SEC. 9. Each permittee shall keep accurate and dependable record of all expenditures made under the permit, for the purposes indicated in section 2 of this regulation, and, in the event a license is issued for a project covered in whole or in part by a permit, any and all items properly includible in the actual legitimate cost of the project representing expenditures made under the permit and before the date of the license shall be supported by proper vouchers or other records, the same as would have been required of a licensee had no permit been issued; and any such vouchers or records, or certified copies thereof, in support of an item properly includible in the cost of the project, shall become a part of the records of the project and shall be kept and retained by the licensee in the manner required by the commission.

REGULATION 10.—LICENSES.

SECTION 1. Except as hereinafter provided, licenses may be issued either in accordance with the provisions of preliminary permits or upon direct application therefor by citizens, associations, corporations, States, or municipalities for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along,

from, or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam.

SEC. 2. Licenses will be issued for such periods, not exceeding 50 years, as in the judgment of the commission will, in each individual case, allow for the satisfactory development and operation of the project and protect the public interest, and shall remain in full force and effect for such periods, unless surrendered or terminated as provided in these regulations or revoked as provided in the act.

SEC. 3. Licenses will not be issued for projects which, in the judgment of the commission, do not come within the scope of its authority under the act, or should be undertaken by the United States itself, or do not propose adequate schemes of development, or lack satisfactory showing of financial ability, or would unreasonably interfere with projects under permit, license, or other authority theretofore granted, or would be opposed to the public interest. No license affecting the navigable capacity of any navigable waters of the United States will be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Licenses within any reservation will be issued only after a finding by the commission that the license will not interfere or be inconsistent with the purposes for which such reservation was created or acquired. Licenses will not be issued until after the expiration of the publication period prescribed by the act.

SEC. 4. Licenses may be altered only upon mutual agreement between the licensee and the commission. Any such alteration shall be made a part of the license and a substitute for the provision altered, but no such alteration shall operate to alter or amend or in any way whatsoever be a waiver of any other part, condition, or provision of the license.

SEC. 5. Licenses may be surrendered only upon mutual agreement between the licensee and the commission, and upon the fulfillment by the licensee of all obligations under the license, with respect to payment or otherwise, existing at the time of such agreement, and, if the project works authorized under the license are constructed in whole or in part, upon such conditions with respect to the disposition of such works as may be determined by the commission.

SEC. 6. Licenses may be terminated by written order of the commission after such reasonable notice, not exceeding 90 days, as the commission may grant, if there is failure to commence actual construction of the project works within the time prescribed in the license, or as extended by the commission. Under similar conditions

and upon like notice the authority granted under a license may be terminated with respect to any project works or separable part thereof covered by the license if there is failure to begin construction of such project works or part thereof within the time prescribed in the license or as extended by the commission; but no part of the project works shall be deemed separable for the purposes of this regulation unless so specified in the license.

SEC. 7. Licenses may be revoked only through proceedings in equity instituted in a district court of the United States for a district in which some part of the project is situated, and in the manner provided in the act.

A. In case construction of the project works covered by the license, or of any specified part thereof, has been begun but not completed within the time prescribed in the license or as extended by the commission; or

B. In case the terms of the license are violated by the licensee.

REGULATION 11.—GENERAL CONSIDERATIONS AFFECTING APPROVAL.

SECTION 1. Only such projects will be approved by the commission as are in its judgment best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses. In deciding these matters the commission will consider:

A. Whether the maps, plans, and specifications are such—

(1) That full, practicable utilization will be made of the water, storage possibilities, and the head at the site to be developed.

(2) That the structures shall be safe and in accordance with good engineering practice.

(3) That all unnecessary energy losses, whether in hydraulic works or in mechanical or electrical equipment, will be avoided.

B. Whether in relation to existing or probable future projects upon the same or adjacent streams, the fullest practicable utilization of the water, storage possibilities, and head available will be made possible.

C. Whether the project will be in general accord with the most beneficial utilization of the water for navigation, water power, irrigation, or other beneficial public uses, and for aiding flood control, reclamation, and similar developments.

D. Whether proper provision is made for present or future electrical interconnection with other projects or systems in order to take advantage of diversity of stream flow and of power demands.

E. Whether the use to which the power will be devoted is, in general, in accord with the needs of the community and of the public welfare.

F. Whether the applicant is financially able to carry out the development.

G. Whether the construction, maintenance, and operation of project works will interfere or be inconsistent with the purpose for which any reservation was created or acquired.

REGULATION 12.—PROJECT WORKS.

The following provisions will govern the planning, construction, operation, and maintenance of major projects, but will not apply to projects of 100-horsepower capacity or less, unless so provided in the licenses therefor:

SECTION 1. Special features of construction and installation:

A. If the dam or other project works are to be constructed across, along, from, or in any of the navigable waters of the United States, the commission may, in so far as it deems the same reasonably necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(1) The licensee shall, to the extent necessary to preserve and improve navigation facilities, construct, in whole or in part, at such time as needs of navigation require, without expense to the United States, in connection with such dam, a lock or locks, booms, sluices, regulating gates, or other structures for navigation purposes, in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of War and made part of such license.

(2) Whenever the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks, regulating gates, or other navigation structures, and that such structures can not, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in subparagraph (1) preceding, the commission may grant the application with the provision to be expressed in the license that the licensee will install necessary navigation structures if the Government fails to make provision therefor within a time to be fixed in the license.

(3) In case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, then, whenever the United States shall desire to complete such navigation facilities, the licensee shall convey to the United States free of cost such of its lands and its rights of way and such right of passage through its dams or other structures and permit or exercise such control of pools as may be required to complete such navigation facilities, and shall make such provision in the approved design and in the construction of the project works in accordance therewith as

will permit such passage through the dams or other structures and such control of pools.

(4) Lights and signals shall be installed as and when directed by the Secretary of War.

(5) The licensee shall construct and install such appliances as are necessary for furnishing power for the operation of navigation facilities, including lights and signals, whether constructed by the licensee or by the United States.

B. Fishways shall be constructed as may be prescribed by the Secretary of Commerce.

C. In the case of projects situated either wholly or partially on lands of the United States the licensee shall clear the reservoir site in the manner and to the extent specified in the license, and shall also clear and keep clear lands of the United States along water conduits and transmission lines. The licensee shall also dispose of all brush, refuse, or unused timber on lands of the United States resulting from the construction and maintenance of the project works to the satisfaction of the commission. In the case of projects on navigable waters, the commission will require such clearing of reservoir sites as may be specified by the Chief of Engineers and the Secretary of War and set forth in the license. The commission may in any case require such clearing of lands and such disposition of brush, refuse, or unused timber as it may deem necessary in the public interest or for the protection of life, health, and property, which requirement shall also be specified in the license.

D. The licensee shall place and maintain suitable structures to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone, and other signal wires or power transmission wires not owned by the licensee. The licensee shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling and obstructing traffic and endangering life on highways, streets, or railroads.

SEC. 2. Maps, plans, and specifications:

A. Modification of any project and of the plans and specifications of the project works before approval may be required by the commission when such modification is necessary in order to secure a comprehensive scheme of improvement and utilization, as contemplated by Regulation 11.

B. The maps, plans, and specifications, when approved by the commission, shall be made a part of the license, and no license will be issued prior to such approval. Thereafter no substantial change shall be made in said maps, plans, or specifications until such changes shall have been approved by the commission and the license altered accordingly, as required by section 4, paragraph A, of this regulation.

C. No license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War.

D. After the completion of the project works the licensee shall submit a revised set of maps, plans, and specifications in so far as necessary to show variations, in the project works as constructed, from the original maps, plans, and specifications submitted with the application for license, or from those submitted under the provisions of section 2, paragraph B, of this regulation; shall maintain during the period of the license a complete set of record drawings prepared in conformity with good engineering practice to any convenient size and scale, covering the project works as constructed; and shall from time to time, on request of the commission, furnish such copies of such record drawings as may be required for the information of the commission.

SEC. 3. Construction:

A. The licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such parts of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market, and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The period for the commencement of construction may be extended once, but not longer than two additional years, and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests.

B. The project work shall be constructed in substantial conformity with the maps, plans, and specifications, or changes therein, approved as hereinbefore provided, and made a part of the license. Minor changes in or divergence from the approved plans may be made in the course of construction, if such changes do not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development. Any changes made without the prior approval of the commission or of its authorized representative which produce such results shall be subject to such alteration as the commission may direct.

SEC. 4. Alterations and additions:

A. A licensee desiring to make alterations in, or additions or betterments to, his project which will affect materially the cost, the

power capacity, or the efficiency of the project, or which will affect materially navigation or other uses of the water, or which will modify the proposed use of the lands or structures of the United States, shall file application therefor, accompanied by such maps, plans, specifications, field notes, and estimates of cost, in the form prescribed in Regulation 4, as will be necessary to indicate the nature and extent of the change proposed, together with a full statement of the reasons for the proposed change or changes.

B. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition shall be made to any dam or other project works of a capacity in excess of 100 horsepower without the prior approval of the commission, and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the commission may direct.

C. The licensee shall within a reasonable period after any such emergency alteration or addition has been made file with the commission, in the form prescribed by Regulation 4, plans and specifications showing such changes and the reasons therefor, together with an application for the approval thereof. Such plans and specifications, when approved by the commission, shall become a part of the license.

SEC. 5. Maintenance and operation:

A. The licensee shall maintain the project works in a condition of repair adequate for the safe, efficient, and continuous operation of said works in accordance with the terms of the license, shall make all necessary renewals and replacements to that end, shall so maintain and operate said works as not to impair navigation, shall assist the authorized representatives of the commission in making inspections of project works, shall furnish such information and reports as may be required by the commission in connection with the maintenance and operation thereof, and shall comply with all reasonable orders issued by the commission with respect to maintenance and with respect to operation in so far as it may affect navigation or other beneficial use of the water.

B. Navigation facilities constructed as a part of or in connection with any dam or diversion structure built under the provisions of the act, whether at the expense of the licensee or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of War.

C. Lights, signals, regulating gates, and other navigation facilities, which under the terms of the license are to be maintained and operated by the licensee, shall be maintained in such state of repair that

they can be operated promptly and safely in accordance with rules and regulations established by the Secretary of War, and it shall be the duty of the licensee so to operate them.

D. Unless specifically relieved therefrom by the commission, the licensee shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works, and shall make adequate provision in conformity with the prevailing standards of the United States Geological Survey for the determination of the stage and flow of the stream or streams from which the water is to be diverted for the operation of the project works and of the amount of water held in and drawn from storage; shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the commission; and shall make return of such records at such time and in such form as may be required by the commission.

E. The licensee shall furnish free of cost to the United States power for the operation of navigation facilities, including lights and signals, constructed in connection with the project works, whether such facilities are constructed by the licensee or by the United States. (See Regulation 12, sec. 1, par. A (5)).

SEC. 6. Responsibility for damages:

A. Timber upon public lands and reservations of the United States to be used or destroyed in the construction of the project works shall be paid for in accordance with the requirements and estimates of the department concerned.

B. The licensee shall be liable for injury to or destruction of any buildings, bridges, roads, trails, lands, or other property of the United States occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto constructed under the license. Arrangements to meet such liability, either by compensation therefor, reconstruction thereof, or otherwise, shall be made with the appropriate department or agency of the United States.

C. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works, or of the works appurtenant or accessory thereto, constructed under the license, and in no event shall the United States be liable therefor. When such property consists of crops, buildings, or other improvements upon lands in which the United States has reserved the right of reentry under the provisions of section 24 of the act, the licensee will be required in advance of construction to settle with the owner for such damages or to give a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be deter-

mined and fixed in an action brought upon the bond in a court of competent jurisdiction, such bond to be in the form prescribed by the commission.

REGULATION 13.—LANDS RESERVED OR CLASSIFIED AS POWER SITES.

SECTION 1. All lands of the United States included in any proposed project under the provisions of the act shall, from the date of filing of application therefor (see Regulation 2, sec. 3), be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress.

SEC. 2. Whenever the commission shall determine, on application or otherwise, that the value of any lands of the United States reserved by filing of an application for a permit or license, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, it will file a notice of such determination with the Secretary of the Interior, to the end that such lands, if not otherwise reserved, may be declared open to location, entry, or selection, as provided by the act. Before making such a determination the commission must be satisfied that such location, selection, or entry will not materially interfere with or add to the cost of the occupancy and use of the lands for the purposes of the act.

SEC. 3. All locations, entries, or selections made upon lands of the United States in pursuance of determinations by the commission, as provided in section 2 hereof, shall be subject to a reservation of the right of the United States or of its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the commission, for the purposes of the act, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands under the act may enter thereupon for the purposes of the act upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the commission.

NOTE 1.—The regulations governing applications for determinations by the commission, as specified in section 2 hereof, will be furnished upon request.

NOTE 2.—Notice that application for a permit or license has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, will be filed by the commission in the General Land Office, Washington, D. C.

REGULATION 14.—ANNUAL CHARGES.

The annual charges to be paid by the licensee to the United States shall be as follows:

SECTION 1. For reimbursing the United States for the cost of the administration of the act, charges shall be based upon the power capacity of the project and shall be determined according to the following schedule:

A. With respect to each project of more than 100 horsepower, there shall be a preoperation annual charge at the rate of 2 cents per horsepower of power capacity effective during the period between the issuance of the license and the 1st of January immediately following the date of operation of each part or unit. As each separate part or unit goes into operation, the preoperation rate as to such unit shall cease on the 31st of December immediately following, and an operation rate will be substituted, which, for the first calendar year, will be 5 cents per horsepower of installed capacity; for the second calendar year, 10 cents per horsepower of installed capacity; for the third and each succeeding calendar year, 25 cents per horsepower of installed capacity.

B. When the power capacity of the project has been reached, no operating charge will thereafter be made for additional units installed in excess of power capacity. After the maximum rates hereinabove prescribed have become effective with respect to any license, they shall thereafter continue without change with respect to such licenses unless or until the commission or Congress shall make reductions in such rates of charge.

SEC. 2. For recompensing the United States for the use of public lands and reservations (excepting tribal lands within Indian reservations and lands adjoining and pertaining to Government dams) charges shall be based upon the power capacity of the project and in accordance with the schedule of section 1 of this regulation, except as follows:

A. The rate shall be 10 cents per horsepower and the charge shall commence on the 1st of January immediately following the date of operation of the project or of the various parts or units thereof.

B. When any of the land within the project area, exclusive of so much of such area as is occupied and used for transmission lines only, is not public lands or reservations of the United States, the charge determined in accordance with the above-named schedule shall be reduced in the proportion that the land not in public lands or reservations of the United States bears to the total amount of land in such project area, exclusive of so much thereof as is occupied and used for transmission lines only.

C. The charge for public lands or reservations of the United States used for transmission lines only shall be at the rate of $5 per

mile, 100 feet or less wide, per annum, with proportional increase for additional width.

SEC. 3. Horsepower shall be determined in sections 1 and 2 preceding from the definition of power capacity given in Regulation 1, section 15, and may be readjusted annually to provide for changes in the average static head or in the water supply, whether from storage or otherwise, which increase or decrease the power capacity 100 horsepower or more: *Provided*, That operation charges on account of storage shall be based upon the amount of such storage available for use.

SEC. 4. For recompensing the United States for the use of Government dams or other structures and the lands adjoining and pertaining thereto owned by the United States, the commission will fix a reasonable annual charge for the use thereof; and in no case will licenses be issued free of charge for development and utilization of power created by Government dams. The amount charged shall be the fair annual value of the power so created as determined by the commission, and shall not be less than the interest at current rates plus maintenance and depreciation upon so much of the cost of such dams, structures, or land as would be justified if built or purchased solely for purposes of power development, together with any expenses incurred by the United States in operating such dams or structures primarily for the benefit of power development. Depreciation charges shall be based upon the rates of depreciation fixed by the commission for similar structures built by licensee or, in the absence of such rates, upon rates fixed by the commission for the case under consideration. The charge shall begin on the 1st of January immediately succeeding commencement of operation.

SEC. 5. When licenses are issued involving the use of tribal lands embraced within Indian reservations the commission will fix a reasonable annual charge for the use thereof, based upon the commercial value of the land for the most profitable purpose for which suitable, including power development. The charge shall commence upon date license is issued.

SEC. 6. The annual charges described in sections 4 and 5 of this regulation for the use of Government dams or other structures and of tribal lands embraced within Indian reservations, may be readjusted at the end of 20 years after the beginning of operation and at periods of not less than 10 years thereafter in a manner to be described in each license.

SEC. 7. No exemption shall be made from payment of annual charges for the use of Government dams or of tribal lands within Indian reservations, but licenses will be issued without charge—

A. For the development, transmission, or distribution of power by States or municipalities, to the extent that the power developed under

the project is sold to the public without profit, or is used by such State or municipality for State or municipal purposes. As to all power so developed which is sold for profit, such of the foregoing provisions for charges shall apply as may be applicable.

B. For all projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation.

C. For the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects aggregating not more than 100-horsepower capacity under one license.

SEC. 8. The payment of above annual charges shall be upon bills rendered by the commission at the end of each calendar year for the year preceding.

REGULATION 15.—BENEFITS FROM HEADWATER IMPROVEMENT.

SECTION 1. Whenever any licensee hereunder is directly benefited by the construction work of another licensee, of a permittee, or of the United States, of a storage reservoir or other headwater improvement, the commission will require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvement for such part of the annual charges for interest, maintenance, and depreciation thereon as the commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the commission and the date when such charges are due shall be fixed by the commission.

SEC. 2. Where such benefit is received from the construction work of another licensee or permittee, payments shall be made to such licensee or permittee, annually, for each preceding year and the commission notified of such payment, and whenever such benefit is received from a reservoir or other improvement constructed by the United States, such payments shall be made annually into the Treasury of the United States to be received and appropriated as a part of the special fund for headwater improvements as provided in section 17 of the act.

REGULATION 16.—DEPRECIATION RESERVES.

SECTION 1. *General requirements.*—The licensee shall maintain the project works in accordance with Regulation 12, section 5; shall make all necessary renewals and replacements, for this purpose shall establish and maintain adequate depreciation reserves; and shall conform to such rules and regulations as the commission may from time to time prescribe for the charging or accrual of depreciation, the classification of property for the purpose of accruing or accounting for depreciation, the rate or amount of depreciation to be charged

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or accrued on each unit, class, or group of property, and the establishment and maintenance of depreciation reserve accounts.

SEC. 2. *Depreciation defined.*—By the term "depreciation" is meant the losses, either temporary or permanent, suffered through the current lessening in service value of tangible physical property due to wear and tear from operation and the action of time and the elements which are not replaced by current repairs, as well as those ordinary losses in capacity for use or service sustained by physical property from obsolescence or inadequacy due either to age, physical change, or supercession resulting from new inventions, discoveries, change in popular demand, or requirements of public authority; also decreases in the service value of intangible property and tangible nonphysical property through lapse of time or other causes. Temporary losses in service value of property, which it is practicable later to replace through repairs or renewals, may be said to represent deferred maintenance. For the purpose of this regulation the term "deferred maintenance" shall be understood to mean physical deterioration through wear and tear due to use, or to the effects of weather or other physical conditions, which accrues currently from the time project property comes into existence or is placed in service, but which does not materially reduce the operating efficiency of the project works and which it is impossible or impracticable to replace by current repairs or renewals.

SEC. 3. *Character of property involved.*—For the purpose of accruing depreciation and all accounting in connection therewith, all property the cost of which is properly includible in the fixed capital account of the project or projects shall be classified as between (A) property not subject to depreciation and (B) property which is subject to depreciation.

A. Under property not subject to depreciation shall be included:

(1) Land held in fee or under perpetual rights.

(2) Perpetual franchises, perpetual water and riparian rights, and other perpetual rights and licenses.

(3) Overhead costs of construction, which pertain to the project as a whole and can not be allocated to definite items of property, such as expenditures for organization, engineering and superintendence, law expenditures during construction, injuries and damages during construction, taxes during construction, interest during construction, miscellaneous construction expenditures; also expenditures on uncompleted units of plant or equipment properly includable in the fixed capital account as "unfinished construction" or other similar designation.

(4) Any other tangible physical property which from the nature of its construction or its inherent characteristics may be considered as permanent and not subject to depreciation.

B. Under property which is subject to depreciation shall be included:

(1) Rights of way and other land rights having a fixed term of life or other than perpetual.

(2) Franchises, patent rights, water and riparian rights, and other rights and licenses having a fixed term of life or other than perpetual.

(3) All buildings, structures, equipment, facilities, and appliances constituting the tangible physical property of the project or projects, except such tangible physical property as from the nature of its construction or its inherent characteristics may be considered as permanent and not subject to depreciation.

SEC. 4. *Method of computing and accounting for depreciation, and rates to be charged.*—A. Charges for depreciation, other than deferred maintenance, shall in all cases be based upon the cost of the property depreciated, and the rate used shall be such that when applied to the cost of a particular structure, unit of equipment, item, or class of depreciable property at regular intervals throughout the estimated service life of such structure, unit of equipment, item, or class of property it will produce an amount equal to the cost thereof plus the cost of dismantling, less salvage. For the purposes of this regulation the cost of any project or projects licensed under the provisions of section 23 of the act and constructed prior to issuance of license thereunder shall be deemed to be the fair value of said project or projects determined as provided in said section. Depreciation representing deferred maintenance shall be estimated, based upon experience and the best sources of information available. Where the loss or exhaustion of capacity for service is dependent upon the use made of certain units or classes of property a rate of depreciation based upon the amount of power generated or other appropriate basis may be employed. If the licensee desires, a composite rate of depreciation for tangible, physical property described under section 3, paragraph B, subparagraph (3) above, may be ascertained and applied to the cost of such property. The procedure in connection with the accounting for depreciation of the project shall be such that at all times the credit balance in the depreciation reserve account shall fairly reflect, as nearly as it is practicable to estimate, the accrued depreciation on the project property remaining in service. All losses in the service value of the property, including, in the absence of negligence of the licensee, extraordinary losses, whether or not provided for currently, shall be included in operating expenses as a charge against the earnings from operation.

B. The licensee shall within six months after the date of going into service of any project prepare and submit to the commission a statement showing in detail the plan upon which it is proposed to charge depreciation, including the cost of the project, the property, and the

cost thereof on which it is proposed to charge depreciation, and the property and the cost thereof which the licensee considers is not subject to depreciation and upon which no depreciation charges are proposed. Such statement shall further show as to each class of property, or structure, unit, or item when separately estimated, on which it is proposed to charge depreciation, other than deferred maintenance, its cost, its service life (estimated if not known), the estimated value of salvage (if any) recoverable at the time of retirement, and the rate necessary to be applied to the cost of each such class of property, or structure, unit, or item, to produce a reserve equal to the difference between such cost and the value of salvage (if any) recoverable at the time of retirement. A schedule shall also be submitted showing a list of property, if any, and the cost thereof, on which it is proposed to charge depreciation representing deferred maintenance, the annual amount of such depreciation, the basis for determining such amount, and such other details as may be appropriate. Such classification of property and such rates and amounts of depreciation thereon so proposed shall be used by the licensee as a basis for charging depreciation, unless and until the commission, after investigation and hearing, shall by order require changes in such classification and in such rates and amounts of depreciation.

SEC. 5. *Investigations and hearings.*—The commission may, when questions arise regarding the propriety of the rates and amounts being charged by a licensee for depreciation on property, or the classification thereof for depreciation purposes, or the sufficiency of the depreciation reserves, or the condition in which the project works are being maintained, institute an investigation or hold a hearing, or both, and require the licensee to present at any such hearing testimony regarding such matter or matters for the purpose of determining whether the project works are being maintained in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, and whether all necessary renewals and replacements are being made, and whether adequate depreciation reserves for such purposes have been established and are being maintained. After such investigation or hearing the commission may issue such order or orders, not inconsistent with the act, as in its judgment will insure compliance by the licensee with the conditions of the license in respect of all matters so investigated.

SEC. 6. *Disposition of depreciation reserve account*—A. *Upon the transfer of license.*—Upon the transfer of any license, whether by voluntary transfer, judicial sale, foreclosure, or otherwise, any successor or assign of the rights under such license shall be required to transfer to his or its account the credit balance in the depreciation reserve account; and the use of such account and balance and the accounting in connection therewith shall be continued by such successor or assign in the same manner as required of the original licensee as if there had been no transfer.

B. *Upon revocation of license.*—In the event a decree revoking a license is entered as a result of proceedings in equity in any court of competent jurisdiction and the whole or any part of the project or projects under license is sold by the court the vendee shall be required, unless the court decrees otherwise, to transfer to his or its accounts the credit balance in the depreciation reserve account with respect of such part of the project or projects as may be acquired by such vendee under such sale; and the use of such account and balance and the accounting in connection therewith shall, unless the court decree otherwise, be continued by such vendee in the same manner as required of the original licensee as if there had been no sale: *Provided*, That such transfer of balance shall not be required of the United States in the event it becomes the purchaser of the whole or any part of the project.

C. *Upon the expiration of the license.*—If at the expiration of the original license the United States does not exercise its right to take over, maintain, and operate any project or projects of the licensee, and if at such time a new license is not issued to a new licensee or a new license issued to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, but an annual license is issued to the then licensee under the terms and conditions of the original license, then and in the latter event the then licensee shall continue in his or its accounts the credit balance in the depreciation reserve account; and the use of such account and balance and the accounting in connection therewith shall be continued under the rules and regulations in effect with respect thereto at the time of the expiration of the original license until such time as the United States may take over the project or projects or issue a new license. If a new license other than annual is issued by the commission, the foregoing requirements shall apply, unless such new license shall specifically provide otherwise.

D. If and when the United States exercises its right to take over the project or projects under license or to issue a new license to a new licensee any credit balance in the current depreciation reserve account shall be considered in determining the net investment in the project or projects.

SEC. 7. *Separate accounting as between project and nonproject property.*—The accounts of the licensee shall be kept and maintained in such manner as to show separately the amounts accrued or charged for depreciation on project property and that accrued or

charged on other plant property operated in connection with the project, also the proportion of balances carried in the depreciation reserve account with respect to project and nonproject property, respectively.

REGULATION 17.—AMORTIZATION RESERVES.

SECTION 1. *General requirements.*—After the first 20 years of operation, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the actual, legitimate investment of a licensee in any project or projects under license the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the commission, be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license.

SEC. 2. *Definition of terms.*—For the purpose of this regulation the terms "actual, legitimate investment," "earnings," "surplus earnings," and "amortization reserves" shall have the meanings assigned to them as follows:

A. *Actual, legitimate investment* means the net debit balance in the fixed capital accounts of a project or projects of items properly includible therein under the accounting rules and regulations of the commission. The term shall not include investments made from donations by States, municipalities, individuals, or others.

B. *Earnings* of a project means the excess of credits over debits of the items of operating revenues, operating expenses, income, and profit and loss named below, or similar items which may be provided for in the accounting rules and regulations prescribed by the commission from time to time for the use of licensees, whether resulting directly from operations, or transactions involving the project only or allocated to the project as a result of joint operations or of transactions involving the project and other property operated in connection therewith:

Debit items.	Credit items.
Operating expenses.	Operating revenue.
Uncollectible bills.	
Taxes assignable to operations.	
Taxes on net income.	
Reimbursement of other licenses.	Reimbursement from other licenses.
Federal rents.	
Rent for lease of other electric plant.	Rent accrued from lease of electric plant—Cr.
Delayed income debits.	Delayed income credits.
Cancellation of general balance sheet accounts the balances in which were created by credits to operating expenses or income accounts appearing as a credit item herein.	Cancellation of general balance sheet accounts representing unclaimed wages and vouchered accounts written off because of licensee's inability to locate the creditor, and other like accounts.
Loss on land sold.	Profit on land sold.

If the total of the debit items exceeds the total of the credit items such excess of debits shall be known as *Earnings—Dr.*

C. *Surplus earnings* or surplus, as used in section 10 (*d*) of the act, means the earnings in excess of the specified rate of return (as set forth in the license) upon the actual, legitimate investment of the licensee in any project or projects.

D. *Amortization reserves* means the amounts appropriated or set aside by the licensee out of *surplus earnings* for the purpose of amortizing in whole or in part any debit item or items in the fixed capital accounts of a project or projects.

SEC. 3. *Specified rate of return—Method of determining.*—A. Unless otherwise provided in the license, the "specified rate of return" upon the actual, legitimate investment of a licensee in any project or projects shall, for the purposes of this regulation, be one and one-half times the weighted average annual interest rate payable on the par value of the long-term debt of the licensee actually outstanding on account of project property and of nonproject property operated in connection therewith, at the beginning of the period of amortization and of each calendar year thereafter. The term "long-term debt" shall include the classes thereof defined or prescribed from time to time in the accounting rules and regulations of the commission.

B. In determining such weighted average annual interest rate there shall be included the interest payable according to the terms of the bonds, notes, or other evidences of such debt, discount (or premium) thereon, and expenses incurred in connection with the issue and initial sale thereof, such discount (or premium) and expenses for such purposes being prorated with respect to any item of such debt over the life of the security issued in respect thereof in the manner prescribed in the accounting rules and regulations of the commission.

C. When a single issue of bonds, or other evidence of long-term debt, is actually outstanding, both (*a*), on account of project property and of nonproject property operated in connection therewith, and (*b*), on account of property not so operated, such issue, for the purposes of determining such annual charge, shall, unless otherwise provided in the lien, be prorated between groups (*a*) and (*b*) above in the ratio of the actual, legitimate investment of the licensee in said groups, respectively, estimated if not actually determinable.

D. The fixing of a specified rate of return for the purposes of this regulation shall not be construed as limiting in any degree whatsoever the authority of the commission, or of any other public agency, in respect to the determination of a fair rate of return in any rate-making proceedings or in any proceedings for the determination of the net investment under the provisions of sections 14 and 15 of the act,

or in connection with any other matter not directly related to the administration of this regulation.

SEC. 4. *Period for accumulating amortization reserves.*—For the purpose of this regulation the period for computing earnings and surplus, the appropriating or setting aside of amortization reserves, and all accounting or transactions in connection therewith shall begin 20 years after the date a project is placed in operation under a license issued under the act. This will include all projects so licensed whether constructed before or after the issuance of such license. Unless the date of the beginning of operations under a license issued under section 23 of the act for a project already constructed and in operation is specifically fixed in such license, such date will be considered as being the date such license is issued by the commission.

SEC. 5. *Proportion of surplus earnings to be reserved.*—Subject to the provisions of section 6 of this regulation, and unless otherwise specified in the license, the following proportions of such surplus earnings shall be paid into and held in such amortization reserve: Of all surplus earnings up to and including 2 per cent upon the actual legitimate investment, 30 per cent thereof shall be so paid; of all surplus earnings in excess of 2 per cent and not in excess of 4 per cent upon such investment, 50 per cent thereof shall be so paid; of all such surplus earnings in excess of 4 per cent and not in excess of 6 per cent, 70 per cent thereof shall be so paid; and of all such surplus earnings in excess of 6 per cent, 90 per cent thereof shall be so paid: *Provided*, That the commission may, if it finds that the earnings of the licensee during the first 20 years of operation have not yielded a fair return upon the actual, legitimate investment in the project or projects under license, limit to 10 per cent the proportion of such surplus earnings to be paid into such amortization reserves until such time as the accumulated earnings of the licensee represent, in the judgment of the commission, a fair return upon such investment.

SEC. 6. *Accounting procedure.*—A. This regulation shall become effective with the beginning of the twenty-first year of operation of a project under license. On or before 60 days after the close of the calendar year in which the twenty-first year's operation commences under a license issued under the act, and likewise for each succeeding calendar year thereafter, the licensee shall ascertain the amount of "Earnings" or "Earnings—Dr." resulting from the year's operations, as also the surplus earnings, if any, and shall prepare and submit to the commission for approval a statement thereof, which statement shall show the items used in computing the earnings as well as all the necessary details with respect thereto; and such

statement shall also show the actual, legitimate investment of the licensee in the project or projects at the beginning of the period of amortization or at the beginning of each calendar year thereafter. The actual, legitimate investment at the beginning of the period of amortization or of each calendar year thereafter shall be used as the basis for ascertaining the amount of the specified return. The statements with respect to earnings, etc., shall be cumulative. If at the close of the year following the beginning of the period of amortization, or any year thereafter, the statement submitted and approved by the commission shows earnings accumulated in excess of the specified rate of return on the actual legitimate investment for such period, such proportion of such excess as is required by section 5 hereof shall be set aside in a fund and accounted for in such manner as may be prescribed in the accounting rules and regulations of the commission: *Provided, however*, That the licensee shall not be required to include in the amortization reserve account or to set aside a total amount greater than the accumulated surplus earnings for the period.

B. The cash transferred to the amortization fund may be deposited in bank, or invested in the securities of the licensee, or such other securities as the commission may approve; and in the discretion of the commission such amortization reserves and funds shall be held until the termination of the license or be applied from time to time in reduction of the net investment.

C. Interest derived from the amortization fund deposited in bank or income from investments belonging to such fund shall be credited to the appropriate income account and an equal amount of cash transferred to the fund.

SEC. 7. *Disposition of amortization reserve accounts and funds.*—A. *Upon the transfer of license.*—Upon the transfer of any license, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, any successor or assign of the rights under such license shall be required to transfer to his or its accounts any credit balance in the amortization reserve account as also any debit balance in the amortization fund account, and the use of such accounts and the balances therein and the accounting in connection therewith shall be continued by such successor or assign in the same manner as if there had been no transfer.

B. *Upon revocation of license.*—In the event a decree revoking a license is entered as a result of proceedings in equity in any court of competent jurisdiction and the whole or any part of the project or projects under license is sold by the court, the vendee shall be required to transfer to his or its accounts the credit balance in the amortization reserve account and the debit balance in the amortization fund

account with respect of such part of the project or projects as may be acquired by such vendee under such sale, and the use of such accounts and balances and the accounting in connection therewith shall, unless the court decree otherwise, be continued by such vendee in the same manner as if there had been no sale: *Provided*, That such transfer of balances shall not be required of the United States in the event it becomes the purchaser of the whole or any part of the project.

C. *Upon the expiration of the license (secs. 14 and 15).*—If at the expiration of the original license the United States does not exercise its right to take over, maintain, and operate any project or projects of the licensee, and if at such time a new license is not issued to a new licensee or a new license issued to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, but an annual license is issued to the then licensee under the terms and conditions of the original license, then and in the latter event the then licensee shall continue in his or its accounts the credit balance in the amortization reserve account and the debit balance in amortization fund account, and the use of such accounts and balances and the accounting in connection therewith shall be continued under the rules and regulations in effect with respect thereto at the time of the expiration of the original license until such time as the United States may take over the project or projects or issue a new license to a new licensee. If a new license other than annual is issued by the commission, the foregoing requirements shall apply unless such new license shall specifically provide otherwise.

D. If and when the United States exercises its right to take over the project or projects under license or to issue a new license, any balances in the amortization reserve account and the amortization fund account shall be considered in determining the net investment in the project or projects, and the original licensee shall be entitled to receive and retain any cash or other funds contained in the amortization fund.

REGULATION 18—EXPROPRIATION OF EXCESSIVE PROFITS.

SECTION 1. Until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period of amortization as provided in section 10 (*d*) of the act is reached, the licensee shall pay annually to the United States any and all excessive profits arising from the operation of the project or projects under license, and of any other property operated in connection therewith.

SEC. 2. If the commission at any time during the period specified in the preceding paragraph has reason to believe that any licensee may be earning or has earned excessive profits within the meaning

of section 10 (*e*) of the act, it will cause an investigation to be instituted and a hearing to be had, and after such investigation and hearing will issue such order or orders, not inconsistent with the act, as may be appropriate concerning the expropriation of excessive profits, if any, and the payment thereof to the United States. If the licensee is a public-service or other corporation, or a person or association developing, transmitting, or distributing power for sale or use in public service, and the regulation and control of the rates charged by such licensee is within the jurisdiction of the commission, such order or orders may require the licensee to make such reduction in the rates charged that excessive profits will not be earned.

SEC. 3. Where a State has created and has authorized and empowered a commission or other agency or agencies to regulate or control the rates and charges of payment for power developed, transmitted, or distributed within such State by public-service or other corporations, or by persons or associations, for sale or use in public service, it shall be deemed, for the purposes of this regulation and of section 10 (*e*) of the act, that such State has made provision for preventing excessive profits with respect to such public-service or other corporations and to such persons and associations.

SEC. 4. When the licensee is not a public-service corporation or a person, association, or corporation developing, transmitting, or distributing power for sale or use in public service, but such power is developed, transmitted, distributed, or used for manufacturing, industrial, or other nonpublic-service purposes by the licensee or by any subsidiary corporation the stock of which is owned or controlled directly or indirectly by the licensee, the commission may determine the fair value of the power so used and from such value determine the profits of such licensee and whether and to what degree such profits so determined are excessive and may require the licensee to pay to the United States any and all such excessive profits: *Provided*, That such value so determined shall not be greater than the price at which an equal amount of power under similar service requirements could be purchased by such licensee or subsidiary corporation from any other source.

SEC. 5. Any proceeding involving the matter of excessive profits shall, in so far as practicable, be conducted according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the act to regulate commerce, approved February 4, 1887, as amended, and any licensee or other party to such proceeding shall have the same rights of hearing, defense, and review as said companies in such cases.

REGULATION 19.—ALLOCATION OF EARNINGS.

SECTION 1. For use in the administration of certain provisions of the act, and for other purposes, each licensee shall ascertain and report to the commission annually, and at such other times as the commission may require, the earnings of his project or projects, and in computing such earnings the items of operating revenues, operating expenses, income, and profit and loss, as enumerated or provided for in the definition of "earnings" in Regulation 17, section 2 hereof, shall be included.

SEC. 2. Where the operation of the project works is combined with the operation of a generating, distributing, or other operating system, or other nonproject property not under license, and it is necessary to allocate all or a portion of the items involved in computing the earnings as between the project and nonproject operations, such allocation shall be made on an equitable basis. The licensee shall in the first instance prepare and submit to the commission in detail a plan or basis for making such allocation and for ascertaining the earnings of the project. Such plan or basis for making the allocations and ascertaining the earnings of the project shall be employed by the licensee unless and until the commission, from time to time as conditions or experience may warrant, upon application of the licensee or upon its own initiative, and after investigation or hearing, shall find that the earnings are being improperly allocated and shall by order change or modify such plan or basis.

REGULATION 20.—ACCOUNTS AND REPORTS.

SECTION 1. With respect to each project for which a license is issued under the act, the licensee shall conform to such rules and regulations as may be prescribed by the commission from time to time for the establishment and maintenance of a system of accounts and for the keeping and preserving of such books, records, and memoranda pertaining to the project and the project accounts as may be required by the commission; shall submit at such time or times as the commission may require statements and reports, including full information as to assets and liabilities, capitalization, net investment, and reduction thereof, gross receipts, interest due and paid, depreciation and other reserves, cost of project, cost of maintenance and operation of the project, cost of renewals and replacements of the project works, and as to depreciation of the project works and as to production, transmission, use, and sale of power; and shall make adequate provision for currently determining such costs and other facts. All such statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks as the commission may require.

SEC. 2. In order to aid the commission in determining the net investment of a licensee in any project, the licensee shall, upon oath, within a reasonable period of time, to be fixed by the commission, after the construction of the original project or any addition thereto or betterment thereof, file with the commission, in such detail as the commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project, addition, or betterment, and the price paid for water rights, rights of way, lands, or interest in lands; and the licensee shall grant to the commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto.

SEC. 3. The commission reserves to itself the right to investigate and make any lawful order concerning any item or amount included in the cost of the original project or of any addition thereto or betterment thereof, whether such cost is incurred by the licensee during the period of the license, or by a permittee or other person natural or artificial prior to the issuing of a license under the act.

FORMS.

The following forms are prescribed for applications filed under the Federal Water Power Act, approved June 10, 1920 (41 Stat., 1063), in accordance with the foregoing regulations:[1]

FORM 1.—*Official statement of organization of corporation and list of officers and directors.*

[See Regulation 2, sec. 4, par. A (1) (b).]

I, _____, _____
(Name.) (Secretary or president.)
of the _____, do hereby certify that the organization of said corporation has been completed; and that the corporation is authorized to proceed with the project applied for according to the existing laws of the State__ of _____. I further certify that the following is a true list of the principal officers and of the directors of the said corporation, with the full name and official designation of each, to wit: (Here insert the full name and official designation of each principal officer and director.)

Witness my hand and the seal of the corporation this

_____ day of _____ 19__.

_____,

_____.

(SEAL.)

FORM 2.—*Dating and signature of applicant.*

[See Regulations 3, 4, and 5.]

This map (these estimates, this copy of notice, etc.) is a part of the application for preliminary permit (license) made by the undersigned this

_____ day of _____, 19__.

_____.

[1] Applications have proved to be so varied in size that it has been found impracticable to furnish printed blanks therefor. Applications should be typewritten, following the forms indicated herein.

FORM 3.—*Application for preliminary permit.*

[See Regulations 2 and 3.]

(Act of June 10, 1920, 41 Stat., 1063.)

(1) _____

a {corporation / municipality} organized and existing under and by virtue of the laws of the State of _____ and having its office and principal place of business at _____, in the State of _____.

(1) _____, _____, citizen__ of the United States, whose business address is _____ _____ do __ hereby make application to the Federal Power Commission for a preliminary permit for _____ months, for the project described herein and approximately shown upon a certain map signed by the applicant on the _____ day of _____, 192__, which map is filed herewith and made a part hereof. This application is made in order that the priority of the applicant with respect to a license under the Federal Water Power Act may be maintained while securing the data and performing the acts necessary to perfect an application for such license.

2. The location of the project __ applied for is as follows:

(*a*) In the State __ of _____

(*b*) In the county __ of _____

(*c*) On the following-named stream _____ navigable and carrying commerce to the following extent:

_____

_____

_____

_____

(*d*) In the region of the following-named cities and towns:

_____

_____

_____

[1] Cancel words not used.

3. The proposed scheme of development for the project is as follows:

---

4. The proposed use of market for the power to be developed is as follows:

---

5. The location and capacity of all power projects owned or operated by the applicant, the markets supplied thereby, and the relation thereof to the project __ applied for are briefly described as follows:

---

6. The following exhibits are filed herewith and are hereby made a part of this application:

(Give each exhibit a designation and brief description, as Exhibit A, certified copy of articles of incorporation; Exhibit B, official statement of organization of corporation and list of officers on Form 1; Exhibit C, statement of nature and amount of data available, etc.)

Exhibit:---

Exhibit:---

Exhibit:---

IN WITNESS WHEREOF the applicant has caused its name and corporate seal to be hereunto signed and affixed by

--- its ---

thereunto duly authorized, this --- day of ---, 192__.

By ---

Attest:

---,
Secretary.

(When the application is made by an individual or association of individuals, it will be signed and sworn to before a notary public or other officer having authority to administer the oath, using the following form:)

WITNESS the signature__ of the applicant__ this ---

day of ---, 192__.

---

[1] Subscribed and sworn to before me this ---

day of ---, 192__.

[OFFICIAL SEAL.] ---,
Notary Public.

[1] This form when sworn to will serve as evidence of citizenship.

FORM 4.—*Application for license.*

[See Regulations 2 and 4, or 2 and 5.]

(Act of June 10, 1920, 41 Stat., 1063.)

[1] _____

corporation / municipality } organized and existing under and by virtue of the laws of the State of _____, and having its office and principal place of business at _____, in the State of _____ ([1]) _____, citizen__ of the United States, whose business address is _____, do__ hereby make application to the Federal Power Commission for a license for the project described herein and shown on general and detail maps signed by the applicant on the _____ day of _____, 192__, which maps are filed herewith and made a part hereof, said license to authorize the construction, operation, and maintenance of certain project works, the principal ones of which are designated as follows on said maps:

(Give the name or other designation and a brief description of the principal project works and cancel such of the four following items (*a*), (*b*), (*c*), and (*d*) as may not be applicable.)

(*a*. Dams and reservoirs.) _____

(*b*. _____ water conduits.) _____

(*c*. _____ power houses.) _____

(*d* _____ transmission lines.) _____

[1] Cancel words not used.

2. The location of the project__ applied for is as follows:

(*a*) In the State of _____

(*b*) In the county of _____

(*c*) On the following-named stream _____ navigable and carrying commerce to the following extent:

(*d*) In the region of the following-named cities and towns:

3. The proposed scheme of development for the project is as follows:

4. The proposed use or market for the power to be developed is as follows:

5. The location and capacity of all power projects owned or operated by the applicant, the markets supplied thereby, and the relation thereof to the project__ applied for, are briefly described as follows:

6. The following exhibits are filed herewith and are hereby made a part of this application:

(Give each exhibit a designation and brief description, as Exhibit A, certified copy of articles of incorporation; Exhibit B, official statement of organization and list of officers on Form 1; Exhibit C, statement of nature and amount of data already available, etc.)

Exhibit: _____

Exhibit: _____

Exhibit: _____

THE FEDERAL WATER POWER ACT.[1]

(Approved, June 10, 1920; vol. 41, Statutes at Large, p. 1063.)
(Public—No. 280—66th Cong. H. R. 3184.)

AN ACT To create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto, and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Power Commission (hereinafter referred to as the commission), which shall be composed of the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. Two members of the commission shall constitute a quorum for the transaction of business, and the commission shall have an official seal, which shall be judicially noticed. The President shall designate the chairman of the commission.

SEC. 2. That the commission shall appoint an executive secretary, who shall receive a salary of $5,000 a year, and prescribe his duties, and the commission may request the President of the United States to detail an officer from the United States Engineer Corps to serve the commission as engineer officer, his duties to be prescribed by the commission.

The work of the commission shall be performed by and through the Departments of War, Interior, and Agriculture and their engineering, technical, clerical, and other personnel except as may be otherwise provided by law.

All the expenses of the commission, including rent in the District of Columbia, all necessary expenses for transportation and subsistenee, including, in the discretion of the commission, a per diem of not exceeding $4 in lieu of subsistence incurred by its employees under its orders in making any investigation, or conducting field work, or upon official business outside of the District of Columbia and away from their designated points of duty, shall be allowed and paid on the presentation of itemized vouchers therefor approved by a member or officer of the commission duly authorized for that purpose; and in order to defray the expenses made necessary by the provisions of this Act there is hereby authorized to be appropriated such sums as Congress may hereafter determine, and the sum of $100,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, available until expended, to be paid out upon warrants

[1] See amendatory act, approved March 3, 1921, on page 72.

drawn on the Secretary of the Treasury upon order of the commission.

SEC. 3. That the words defined in this section shall have the following meanings for the purposes of this Act, to wit:

"Public lands" means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public-land laws. It shall not include "reservations," as hereinafter defined.

"Reservations" means national monuments, national parks, national forests, tribal lands embraced within Indian reservations, military reservations, and other lands and interests in lands owned by the United States, and withdrawn, reserved, or withheld from private appropriation and disposal under the public-land laws; also lands and interests in lands acquired and held for any public purpose.

"Corporation" means a corporation organized under the laws of any State or of the United States empowered to develop, transmit, distribute, sell, lease, or utilize power in addition to such other powers as it may possess, and authorized to transact in the State or States in which its project is located all business necessary to effect the purposes of a license under this Act. It shall not include "municipalities" as hereinafter defined.

"State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

"Municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

"Navigable waters" means those parts of streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, and which either in their natural or improved condition, notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage, are used or suitable for use for the transportation of persons or property in interstate or foreign commerce, including therein all such interrupting falls, shallows, or rapids; together with such other parts of streams as shall have been authorized by Congress for improvement by the United States or shall have been recommended to Congress for such improvement after investigation under its authority.

"Municipal purposes" means and includes all purposes within municipal powers as defined by the constitution or laws of the State or by the charter of the municipality.

"Government dam" means a dam or other work, constructed or owned by the United States for Government purposes, with or without contribution from others.

"Project" means complete unit of improvement or development, consisting of a power house, all water conduits, all dams and appurtenant works and structures (including navigation structures) which are a part of said unit, and all storage, diverting, or forebay reservoirs directly connected therewith, the primary line or lines transmitting power therefrom to the point of junction with the distribution system or with the interconnected primary transmission system, all miscellaneous structures used and useful in connection with said unit or any part thereof, and all water rights, rights of way, ditches, dams, reservoirs, lands, or interest in lands, the use and occupancy of which are necessary or appropriate in the maintenance and operation of such unit.

"Project works" means the physical structures of a project.

"Net investment" in a project means the actual legitimate original cost thereof as defined and interpreted in the "classification of investment in road and equipment of steam roads, issue of 1914, Interstate Commerce Commission," plus similar costs of additions thereto and betterments thereof, minus the sum of the following items properly allocated thereto, if and to the extent that such items have been accumulated during the period of the license from earnings in excess of a fair return on such investment: (a) Unappropriated surplus, (b) aggregate credit balances of current depreciation accounts, and (c) aggregate appropriations of surplus or income held in amortization, sinking fund, or similar reserves, or expended for additions or betterments or used for the purposes for which such reserves were created. The term "cost" shall include, in so far as applicable, the elements thereof prescribed in said classification, but shall not include expenditures from funds obtained through donations by State, municipalities, individuals, or others, and said classification of investment of the Interstate Commerce Commission shall in so far as applicable be published and promulgated as a part of the rules and regulations of the commission.

SEC. 4. That the commission is hereby authorized and empowered—

(a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the commission may deem necessary or useful for the purposes of this Act.

In order to aid the commission in determining the net investment of a licensee in any project, the licensee shall, upon oath, within a reasonable period of time, to be fixed by the commission, after the

construction of the original project or any addition thereto or betterment thereof, file with the commission, in such detail as the commission may require, a statement in duplicate showing the actual legitimate cost of construction of such project, addition, or betterment, and the price paid for water rights, rights of way, lands, or interest in lands. The commission shall deposit one of said statements with the Secretary of the Treasury. The licensee shall grant to the commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto.

(b) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the commission, to furnish such records, papers, and information in their possession as may be requested by the commission, and temporarily to detail to the commission such officers or experts as may be necessary in such investigations.

(c) To make public from time to time the information secured hereunder, and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The commission, on or before the first Monday in December of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this Act, and in each case the parties thereto, the terms prescribed, and the moneys received, if any, on account thereof.

(d) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State, or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation, and for the development, transmission, and utilization of power across, along, from or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and

utilization of such reservation: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the commission and shall become a part of the records of the commission: *Provided further*, That in case the commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until two years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to the passage of this Act: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (e) of this section, notice shall be given and published as required by the proviso of said subsection.

(e) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 9 hereof: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, association, or corporation the commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application for eight weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

(f) To prescribe rules and regulations for the establishment of a system of accounts and for the maintenance thereof by licensees hereunder; to examine all books and accounts of such licensees at any time; to require them to submit at such time or times as the commission may require statements and reports, including full information as to assets and liabilities, capitalization, net investment and reduction thereof, gross receipts, interest due and paid, depreciation and other reserves, cost of project, cost of maintenance and operation of the project, cost of renewals and replacements of the project works, and as to depreciation of the project works and as to production, transmission, use and sale of power; also to require any licensee to make adequate provision for currently determining said costs and other facts. All such statements and reports shall be made upon oath, unless otherwise specified, and in such form and on such blanks

as the commission may require. Any person who, for the purpose of deceiving, makes or causes to be made any false entry in the books or the accounts of such licensee, and any person who, for the purpose of deceiving, makes or causes to be made any false statement or report in response to a request or order or direction from the commission for the statements and report herein referred to shall, upon conviction, be fined not more than $2,000 or imprisoned not more than five years, or both.

(g) To hold hearings and to order testimony to be taken by deposition at any designated place in connection with the application for any permit or license, or the regulation of rates, service, or securities, or the making of any investigation, as provided in this Act; and to require by subpœna, signed by any member of the commission, the attendance and testimony of witnesses and the production of documentary evidence from any place in the United States, and in case of disobedience to a subpœna the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any member, expert, or examiner of the commission may, when duly designated by the commission for such purposes, administer oaths and affirmations, examine witnesses and receive evidence. Depositions may be taken before any person designated by the commission or by its executive secretary and empowered to administer oaths, shall be reduced to writing by such person or under his direction, and subscribed by the deponent. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(h) To perform any and all acts, to make such rules and regulations, and to issue such orders not inconsistent with this Act as may be necessary and proper for the purpose of carrying out the provisions of this Act.

SEC. 5. That each preliminary permit issued under this Act shall be for the sole purpose of maintaining priority of application for a license under the terms of this Act for such period or periods, not exceeding a total of three years, as in the discretion of the commission may be necessary for making examinations and surveys, for preparing maps, plans, specifications, and estimates, and for making financial arrangements. Each such permit shall set forth the conditions under which priority shall be maintained and a license issued. Such permits shall not be transferable, and may be canceled by order of the commission upon failure of permittees to comply with the conditions thereof.

SEC. 6. That licenses under this Act shall be issued for a period not exceeding fifty years. Each such license shall be conditioned upon acceptance by the licensee of all the terms and conditions of this Act and such further conditions, if any, as the commission shall prescribe in conformity with this Act, which said terms and conditions and the acceptance thereof shall be expressed in said license. Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the licensee and the commission after ninety days' public notice.

SEC. 7. That in issuing preliminary permits hereunder or licenses where no preliminary permit has been issued and in issuing licenses to new licensees under section 15 hereof the commission shall give preference to applications therefor by States and municipalities, provided the plans for the same are deemed by the commission equally well adapted, or shall within a reasonable time to be fixed by the commission be made equally well adapted, to conserve and utilize in the public interest the navigation and water resources of the region; and as between other applicants, the commission may give preference to the applicant the plans of which it finds and determines are best adapted to develop, conserve, and utilize in the public interest the navigation and water resources of the region, if it be satisfied as to the ability of the applicant to carry out such plans.

That whenever, in the judgment of the commission, the development of any project should be undertaken by the United States itself, the commission shall not approve any application for such project by any citizen, association, corporation, State, or municipality, but shall cause to be made such examinations, surveys, reports, plans, and estimates of the cost of the project as it may deem necessary, and shall submit its findings to Congress with such recommendations as it may deem appropriate concerning the construction of such project or completion of any project upon any Government dam by the United States.

The commission is hereby authorized and directed to investigate and, on or before the 1st day of January, 1921, report to Congress the cost and, in detail, the economic value of the power plant outlined in project numbered 3, House Document numbered 1400, Sixty-second Congress, third session, in view of existing conditions, utilizing such study as may heretofore have been made by any department of the Government; also in connection with such project to submit plans and estimates of cost necessary to secure an increased and adequate water supply for the District of Columbia. For this purpose the sum of $25,000, or so much thereof as may be necessary, is hereby appropriated.

SEC. 8. That no voluntary transfer of any license, or of the rights thereunder granted, shall be made without the written approval of the commission; and any successor or assign of the rights of such licensee, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the license under which such rights are held by such licensee and also subject to all the provisions and conditions of this Act to the same extent as though such successor or assign were the original licensee hereunder: *Provided*, That a mortgage or trust deed or judicial sales made thereunder or under tax sales shall not be deemed voluntary transfers within the meaning of this section.

SEC. 9. That each applicant for a license hereunder shall submit to the commission—

(a) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the commission.

(b) Satisfactory evidence that the applicant has complied with the requirements of the laws of the State or States within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purposes of a license under this Act.

(c) Such additional information as the commission may require.

SEC. 10. That all licenses issued under this Act shall be on the following conditions:

(a) That the project adopted, including the maps, plans, and specifications, shall be such as in the judgment of the commission will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, and of other beneficial public uses; and if necessary in order to secure such scheme the commission shall have authority to require the modification of any project and of the plans and specifications of the project works before approval.

(b) That except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works constructed hereunder of a capacity in excess of one hundred horsepower without the prior approval of the commission; and any emergency alteration or addition so made shall

thereafter be subject to such modification and change as the commission may direct.

(c) That the licensee shall maintain the project works in a condition of repair adequate for the purposes of navigation and for the efficient operation of said works in the development and transmission of power, shall make all necessary renewals and replacements, shall establish and maintain adequate depreciation reserves for such purposes, shall so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the commission may from time to time prescribe for the protection of life, health, and property. Each licensee hereunder shall be liable for all damages occasioned to the property of others by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto, constructed under the license, and in no event shall the United States be liable therefor.

(d) That after the first twenty years of operation out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the actual, legitimate investment of a licensee in any project or projects under license the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the commission, be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of return and the proportion of such surplus earnings to be paid into and held in such reserves shall be set forth in the license.

(e) That the licensee shall pay to the United States reasonable annual charges in an amount to be fixed by the commission for the purpose of reimbursing the United States for the costs of the administration of this Act; for recompensing it for the use, occupancy, and enjoyment of its lands or other property; and for the expropriation to the Government of excessive profits until the respective States shall make provision for preventing excessive profits or for the expropriation thereof to themselves, or until the period or amortization as herein provided is reached, and in fixing such charges the commission shall seek to avoid increasing the price to the consumers of power by such charges, and charges for the expropriation of excessive profits may be adjusted from time to time by the commission as conditions may require: *Provided*, That when licenses are issued involving the use of Government dams or other structures owned by the United States or tribal lands embraced within Indian reservations the commission shall fix a reasonable annual charge for the use thereof, and such charges may be readjusted at the end of twenty years after the beginning of operations and at periods of not less than ten years thereafter in a manner to be described in each license: *Provided*, That licenses for the development, transmission,

or distribution of power by States or municipalities shall be issued and enjoyed without charge to the extent such power is sold to the public without profit or is used by such State or municipality for State or municipal purposes, except that as to projects constructed or to be constructed by States or municipalities primarily designed to provide or improve navigation licenses therefor shall be issued without charge; and that licenses for the development, transmission, or distribution of power for domestic, mining, or other beneficial use in projects of not more than one hundred horsepower capacity may be issued without charge, except on tribal lands within Indian reservations; but in no case shall a license be issued free of charge for the development and utilization of power created by any Government dam and that the amount charged therefor in any license shall be such as determined by the commission.

(f) That whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for such part of the annual charges for interest, maintenance, and depreciation thereon as the commission may deem equitable. The proportion of such charges to be paid by any licensee shall be determined by the commission.

Whenever such reservoir or other improvement is constructed by the United States the commission shall assess similar charges against any licensee directly benefited thereby, and any amount so assessed shall be paid into the Treasury of the United States, to be reserved and appropriated as a part of the special fund for headwater improvements as provided in section 17 hereof.

(g) Such other conditions not inconsistent with the provisions of this Act as the commission may require.

(h) That combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

(i) In issuing licenses for a minor part only of a complete project, or for a complete project of not more than one hundred horsepower capacity, the commission may in its discretion waive such conditions, provisions, and requirements of this Act, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances: *Provided*, That the provisions hereof shall not apply to lands within Indian reservations.

SEC. 11. That if the dam or other project works are to be constructed across, along, or in any of the navigable waters of the United States, the commission may, in so far as it deems the same reasonably

necessary to promote the present and future needs of navigation and consistent with a reasonable investment cost to the licensee, include in the license any one or more of the following provisions or requirements:

(a) That such licensee shall, to the extent necessary to preserve and improve navigation facilities, construct, in whole or in part, without expense to the United States, in connection with such dam, a lock or locks, booms, sluices, or other structures for navigation purposes, in accordance with plans and specifications approved by the Chief of Engineers and the Secretary of War and made part of such license.

(b) That in case such structures for navigation purposes are not made a part of the original construction at the expense of the licensee, then whenever the United States shall desire to complete such navigation facilities the licensee shall convey to the United States, free of cost, such of its land and its rights of way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete such navigation facilities.

(c) That such licensee shall furnish free of cost to the United States power for the operation of such navigation facilities, whether constructed by the licensee or by the United States.

SEC. 12. That whenever application is filed for a project hereunder involving navigable waters of the United States, and the commission shall find upon investigation that the needs of navigation require the construction of a lock or locks or other navigation structures, and that such structures can not, consistent with a reasonable investment cost to the applicant, be provided in the manner specified in section 11, subsection (a) hereof, the commission may grant the application with the provision to be expressed in the license that the licensee will install the necessary navigation structures if the Government fails to make provision therefor within a time to be fixed in the license and cause a report upon such project to be prepared, with estimates of cost of the power development and of the navigation structures, and shall submit such report to Congress with such recommendations as it deems appropriate concerning the participation of the United States in the cost of construction of such navigation structures.

SEC. 13. That the licensee shall commence the construction of the project works within the time fixed in the license, which shall not be more than two years from the date thereof, shall thereafter in good faith and with due diligence prosecute such construction, and shall within the time fixed in the license complete and put into operation such part of the ultimate development as the commission shall deem necessary to supply the reasonable needs of the then available market,

and shall from time to time thereafter construct such portion of the balance of such development as the commission may direct, so as to supply adequately the reasonable market demands until such development shall have been completed. The periods for the commencement of construction may be extended once but not longer than two additional years and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the commission when not incompatible with the public interests. In case the licensee shall not commence actual construction of the project works, or of any specified part thereof, within the time prescribed in the license or as extended by the commission, then, after due notice given, the license shall, as to such project works or part thereof, be terminated upon written order of the commission. In case the construction of the project works, or of any specified part thereof, have been begun but not completed within the time prescribed in the license, or as extended by the commission, then the Attorney General, upon the request of the commission, shall institute proceedings in equity in the district court of the United States for the district in which any part of the project is situated for the revocation of said license, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section 26 hereof.

SEC. 14. That upon not less than two years' notice in writing from the commission the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 3 hereof, and covered in whole or in part by the license, or the right to take over upon mutual agreement with the licensee all property owned and held by the licensee then valuable and serviceable in the development, transmission, or distribution of power and which is then dependent for its usefulness upon the continuance of the license, together with any lock or locks or other aids to navigation constructed at the expense of the licensee, upon the condition that before taking possession it shall pay the net investment of the licensee in the project or projects taken, not to exceed the fair value of the property taken, plus such reasonable damages, if any, to property of the licensee valuable, serviceable, and dependent as above set forth but not taken, as may be caused by the severance therefrom of property taken, and shall assume all contracts entered into by the licensee with the approval of the commission. The net investment of the licensee in the project or projects so taken and the amount of such severance damages, if any, shall be determined by agreement between the commission and the licensee, and in case they can not agree, by proceedings in equity instituted by the United States in the district court of the United States in the district within which any such property may

be located: *Provided*, That such net investment shall not include or be affected by the value of any lands, rights of way, or other property of the United States licensed by the commission under this Act, by the license, or by good will, going value, or prospective revenues: *Provided further*, That the values allowed for water rights, rights of way, lands, or interest in lands shall not be in excess of the actual reasonable cost thereof at the time of acquisition by the licensee: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this Act at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved.

SEC. 15. That if the United States does not, at the expiration of the original license, exercise its right to take over, maintain, and operate any project or projects of the licensee, as provided in section 14 hereof, the commission is authorized to issue a new license to the original licensee upon such terms and conditions as may be authorized or required under the then existing laws and regulations, or to issue a new license under said terms and conditions to a new licensee, which license may cover any project or projects covered by the original license, and shall be issued on the condition that the new licensee shall, before taking possession of such project or projects, pay such amount, and assume such contracts as the United States is required to do, in the manner specified in section 14 hereof: *Provided*, That in the event the United States does not exercise the right to take over or does not issue a license to a new licensee, or issue a new license to the original licensee, upon reasonable terms, then the commission shall issue from year to year an annual license to the then licensee under the terms and conditions of the original license until the property is taken over or a new license is issued as aforesaid.

SEC. 16. That when in the opinion of the President of the United States, evidenced by a written order addressed to the holder of any license hereunder, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any project, or part thereof, constructed, maintained, or operated under said license, for the purpose of manufacturing nitrates, explosives, or munitions of war, or for any other purpose involving the safety of the United States, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the party or parties entitled thereto; and in the event that the United States shall exercise such right it shall pay to the party or parties entitled thereto just and fair compensation for the use of said property as may be fixed by the commission upon the basis of a reasonable profit in time of peace, and the cost

of restoring said property to as good condition as existed at the time of the taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the licensee.

SEC. 17. That all proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder shall be paid into the Treasury of the United States, subject to the following distribution: Twelve and one-half per centum thereof is hereby appropriated to be paid into the Treasury of the United States and credited to "Miscellaneous receipts"; 50 per centum of the charges arising from licenses hereunder for the occupancy and use of public lands, national monuments, national forests, and national parks shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902; and 37½ per centum of the charges arising from licenses hereunder for the occupancy and use of national forests, national parks, public lands, and national monuments, from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 per centum of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States.

SEC. 18. That the operation of any navigation facilities which may be constructed as a part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of War. Such rules and regulations may include the maintenance and operation by such licensee at its own expense of such lights and signals as may be directed by the Secretary of War, and such fishways as may be prescribed by the Secretary of Commerce; and for willful failure to comply with any such rule or regulation such licensee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 25 hereof.

SEC. 19. That as a condition of the license, every licensee hereunder which is a public-service corporation, or a person, association, or corporation owning or operating any project and developing, transmitting, or distributing power for sale or use in public service, shall abide by such reasonable regulation of the services to be rendered to

customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged. That in case of the development, transmission, or distribution, or use in public service of power by any licensee hereunder or by its customer engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by such licensee or by its customers engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of such license that jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this section as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

SEC. 20. That when said power or any part thereof shall enter into interstate or foreign commerce the rates charged and the service rendered by any such licensee, or by any subsidary corporation, the stock of which is owned or controlled directly or indirectly by such licensee, or by any person, corporation, or association purchasing power from such licensee for sale and distribution or use in public service shall be reasonable, nondiscriminatory, and just to the customer and all unreasonable discriminatory and unjust rates or services are hereby prohibited and declared to be unlawful; and whenever any of the States directly concerned has not provided a commission or other authority to enforce the requirements of this section within such State or to regulate and control the amount and character of securities to be issued by any of such parties or such States are unable to agree through their properly constituted authorities on the services to be rendered or on the rates or charges of payment therefor, or on the amount or character of securities to be issued by any of said parties, jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved, upon the request of any State concerned, or upon its own initiative to enforce the provisions of this section, to regulate and control so much of the services rendered, and of the rates and charges of payment therefor as constitute interstate or foreign commerce and to regulate the issuance of securities by the parties included within this section, and securities issued by the licensee subject to such regulations shall be allowed only for the bona fide purpose of financing and conducting the business of such licensee.

The administration of the provisions of this section, so far as applicable, shall be according to the procedure and practice in fixing and regulating the rates, charges, and practices of railroad companies as provided in the Act to regulate commerce, approved February 4, 1887, as amended, and that the parties subject to such regulation shall have the same rights of hearing, defense, and review as said companies in such cases.

In any valuation of the property of any licensee hereunder for purposes of rate making, no value shall be claimed by the licensee or allowed by the commission for any project or projects under license in excess of the value or values prescribed in section 14 hereof for the purposes of purchase by the United States, but there shall be included the cost to such licensee of the construction of the lock or locks or other aids of navigation and all other capital expenditures required by the United States, and no value shall be claimed or allowed for the rights granted by the commission or by this Act.

SEC. 21. That when any licensee can not acquire by contract or pledges an unimproved dam site or the right to use or damage the lands or property of others necessary to the construction, maintenance, or operation of any dam, reservoir, diversion structure, or the works appurtenant or accessory thereto, in conjunction with an improvement which in the judgment of the commission is desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: *Provided*, That United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds $3,000.

SEC. 22. That whenever the public interest requires or justifies the execution by the licensee of contracts for the sale and delivery of power for periods extending beyond the date of termination of the license, such contracts may be entered into upon the joint approval of the commission and of the public-service commission or other similar authority in the State in which the sale or delivery of power is made, or if sold or delivered in a State which has no such public service commission, then upon the approval of the commission, and thereafter, in the event of failure to issue a new license to the original licensee at the termination of the license, the United States or the new licensee, as the case may be, shall assume and fulfill all such contracts

SEC. 23. That the provisions of this Act shall not be construed as affecting any permit or valid existing right of way heretofore granted, or as confirming or otherwise affecting any claim, or as affecting any authority heretofore given pursuant to law, but any person, association, corporation, State, or municipality, holding or possessing such permit, right of way, or authority may apply for a license hereunder, and upon such application the commission may issue to any such applicant a license in accordance with the provisions of this Act, and in such case the provisions of this Act shall apply to such applicant as a licensee hereunder: *Provided*, That when application is made for a license under this section for a project or projects already constructed, the fair value of said project or projects, determined as provided in this section, shall for the purposes of this Act and of said license be deemed to be the amount to be allowed as the net investment of the applicant in such project or projects as of the date of such license, or as of the date of such determination, if license has not been issued. Such fair value may, in the discretion of the commission, be determined by mutual agreement between the commission and the applicant or, in case they can not agree, jurisdiction is hereby conferred upon the district court of the United States in the district within which such project or projects may be located, upon the application of either party, to hear and determine the amount of such fair value.

That any person, association, corporation, State, or municipality intending to construct a dam or other project works across, along, over, or in any stream or part thereof, other than those defined herein as navigable waters, and over which Congress has jurisdiction under its authority to regulate commerce between foreign nations and among the several States, may in their discretion file declaration of such intention with the commission, whereupon the commission shall cause immediate investigation of such proposed construction to be made, and if upon investigation it shall find that the interests of interstate or foreign commerce would be affected by such proposed construction, such person, association, corporation, State, or municipality shall not proceed with such construction until it shall have applied for and shall have received a license under the provisions of this Act. If the commission shall not so find, and if no public lands or reservations are affected, permission is hereby granted to construct such dam or other project works in such stream upon compliance with State laws.

SEC. 24. That any lands of the United States included in any proposed project under the provisions of this Act shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress. Notice that such appli-

cation has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the commission, for the purposes of this Act, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this Act, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites or in connection with water-power development or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained.

SEC. 25. That any licensee, or any person, who shall willfully fail or who shall refuse to comply with any of the provisions of this Act, or with any of the conditions made a part of any license issued hereunder, or with any subpœna of the commission, or with any regulation or lawful order of the commission, or of the Secretary of War, or of the Secretary of Commerce as to fishways, issued or made in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall, in the discretion of the court, be punished by a fine of not exceeding $1,000, in addition to other penalties herein prescribed or provided by law; and every month any such licensee or any such person shall remain in default after written notice from the commission, or from the Secretary of War, or from the Secretary of Commerce, shall be deemed a new and separate offense punishable as aforesaid.

SEC. 26. That the Attorney General may, on request of the commission or of the Secretary of War, institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for

violation of its terms any permit or license issued hereunder, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder. The district courts shall have jurisdiction over all of the above-mentioned proceedings and shall have power to issue and execute all necessary process and to make and enforce all writs, orders, and decrees to compel compliance with the lawful orders and regulations of the commission and of the Secretary of War, and to compel the performance of any condition imposed under the provisions of this Act. In the event a decree revoking a license is entered, the court is empowered to sell the whole or any part of the project or projects under license, to wind up the business of such licensee conducted in connection with such project or projects, to distribute the proceeds to the parties entitled to the same, and to make and enforce such further orders and decrees as equity and justice may require. At such sale or sales the vendee shall take the rights and privileges belonging to the licensee and shall perform the duties of such licensee and assume all outstanding obligations and liabilities of the licensee which the court may deem equitable in the premises; and at such sale or sales the United States may become a purchaser, but it shall not be required to pay a greater amount than it would be required to pay under the provisions of section 14 hereof at the termination of the license.

SEC. 27. That nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein.

SEC. 28. That the right to alter, amend, or repeal this Act is hereby expressly reserved; but no such alteration, amendment, or repeal shall affect any license theretofore issued under the provisions of this Act, or the rights of any licensee thereunder.

SEC. 29. That all Acts or parts of Acts inconsistent with this Act are hereby repealed: *Provided*, That nothing herein contained shall be held or construed to modify or repeal any of the provisions of the Act of Congress approved December 19, 1913, granting certain rights of way to the city and county of San Francisco, in the State of California: *Provided, further*, That section 18 of an Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, approved August 8, 1917, is hereby repealed.

SEC. 30. That the short title of this Act shall be "The Federal Water Power Act."

Approved, June 10, 1920.

(PUBLIC—No. 369—66th Cong.)

(S. 4354.)

AN ACT To amend an Act entitled "An act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes," approved June 10, 1920.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no permit, license, lease or authorization for dams, conduits, reservoirs, power houses, transmission lines, or other works for storage or carriage of water, or for the development, transmission, or utilization of power, within the limits as now constituted of any national park or national monument shall be granted or made without specific authority of Congress, and so much of the Act of Congress approved June 10, 1920, entitled "An Act to create a Federal Power Commission; to provide for the improvement of navigation; the development of water power; the use of the public lands in relation thereto; and to repeal section 18 of the River and Harbor Appropriation Act, approved August 8, 1917, and for other purposes," approved June 10, 1920, as authorizes licensing such uses of existing national parks and national monuments by the Federal Power Commission is hereby repealed.

Approved March 3, 1921.

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TITLE